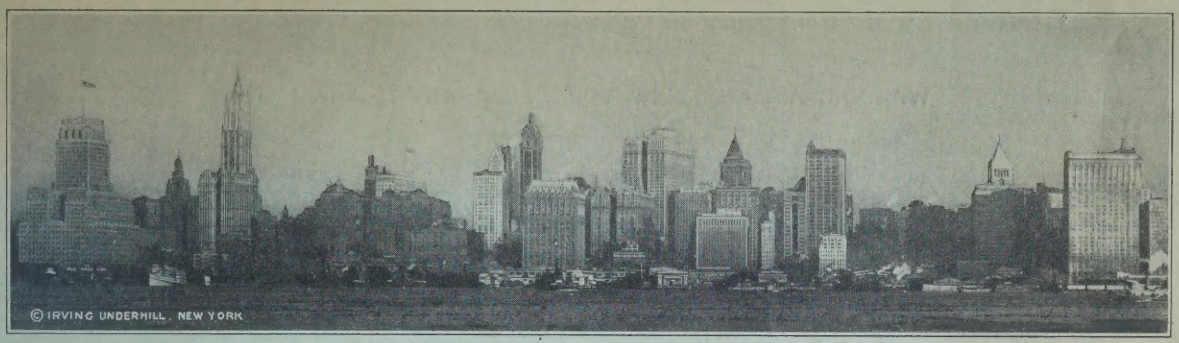


Proceedings

Seventh Mid-Winter Trust Conference

February 17-18-19, 1926

Trust Company Division
American Bankers Association
110 East 42nd Street, New York

PROGRAM

Seventh Mid-Winter Trust Conference and Fifteenth Annual Banquet of the Trust Companies of the United States

WALDORF-ASTORIA, NEW YORK, FEBRUARY 17-18-19, 1926

BANQUET—*Thursday Evening, Feb. 18.*

Francis H. Sisson, *President, Trust Company Division, American Bankers Association and Vice-President of the Guaranty Trust Company of New York, Toastmaster.*

Proceedings

Wednesday Morning Session, February 17, 1926

The Seventh Mid-Winter Trust Conference held under the auspices of the Trust Company Division of the American Bankers Association, convened at ten-thirty o'clock at the Waldorf-Astoria, New York, Hon. Edward J. Fox, Vice-President of the Trust Company Division and President of the Easton Trust Company, Easton, Pa., presiding.

CHARMAN FOX: I regard it as a great privilege to welcome you all to the Seventh Annual Trust Conference, which is to take place today and tomorrow and on Friday. These conferences have proved to be very valuable and most successful. I think when we started with them they were held only one day, but gradually we have had to extend the time two days, and, this year, for the first time, we will have the conference lasting for three days, and an attractive program has been prepared.

I am very glad to say also that the scope of the conference has been considerably enlarged. Originally, it was a conference for trust company men only, but we have enlarged it to include all organizations of a fiduciary character. We are particularly glad today to welcome to this conference the representatives of the national banks who are exercising trust powers.

You will recognize the fact that, originally, when Congress passed the act giving national banks the right to exercise trust powers, there was, in some quarters at least, a feeling of jealousy and some hostility to the national banks because of this additional power that had been conferred upon them, but we are very happy to note that that feeling has almost disappeared, and that there is now a cordial relation, not only between trust companies and the national banks, but between the insurance companies and all other organizations that exercise trust powers. So we welcome them all here today.

I think perhaps we may paraphrase what Admiral Schley said at the Battle of Santiago, and say there is not only glory enough for us all, but also there is business enough for us all. Competition is a great thing and it will spur us all on to greater activity.

I regret to say that, by reason of illness in his family, Dr. Finley, the first speaker on the program, is unable to be with us today. But we have been able, by reason of the good nature of Dr. Anthony, to effect an exchange, and Dr. Anthony, who was to speak tomorrow, will speak today in place of Dr. Finley, and we hope by tomorrow Dr. Finley can come to us.

I now have the pleasure, therefore, of introducing Dr. Alfred Williams Anthony, Chairman of the Committee on Financial and Fiduciary Matters of the Federal Council of the Churches of Christ in America, who will speak to us on "Coordinating Fiduciary Objectives."

Coordinating Fiduciary Objectives

By ALFRED WILLIAMS ANTHONY, LL.D.

Chairman, Committee on Financial and Fiduciary Matters, Federal Council of the Churches of Christ in America

Mr. Chairman: I am sorry to be the first voice to break the silence of this conference—assuming that it is silence, unbroken by your Secretary—and take the place of Dr. Finley. Possibly I might say that the illness which has detained Dr. Finley is the advent of, I do not know yet whether grandson or granddaughter, but to increase such a tribe I would be glad to speak all day because we, in New York, prize the Finley brand.

I am a compounded, concentrated representative of a committee—the Committee on Financial and Fiduciary Matters of the Federal Council of the Churches of Christ in America—and that committee represents national organizations, themselves composite, comprehensive and nation-wide, such as the Federal Council of the Churches, the Home Missions Council, the Council of Women for Home Missions, the Foreign Missions Conference, the Council of Church Boards of Education, the Association of American Colleges, the International Y. M. C. A., the National Y. W. C. A., and similar bodies. And these, in turn, represent denominational boards of education, of missions, home and foreign, and of charity and philanthropy; and these in their turn represent practically every local church in the country, every American mission station or agency in this and in other lands, every col-

lege and university under American control at home and abroad, and a great many hospitals, homes, asylums, retreats and charities. That's what I represent.

Individual Aspect of Our Philosophy

I represent also a philosophy, the maxims of which are these: credit rests on confidence, confidence arises out of character, character is built by the home, the school, the college, the church, by literature and by associations. For the sake of sound credit we must have unshaken confidence, and for the sake of unshaken confidence we must nurture sound moral character, and for the sake of sound moral character we must maintain the home, the school, the college, the church, good literature and good associations. No business can flourish without sound morality at the core. That is one piece of our philosophy, from the point of view of the individual.

Communal Aspect

The communal aspect of our philosophy is this: If every day consumed all it produced, all days would be alike, each consuming what it produced and closing at night practically where it began in the morning. There would be no progress. Progress depends upon savings. Were every college building to fall to pieces as soon as it was completed the treadmill of building programs in daily succession would take the place of culture. Thrift, endowment, permanent structures and permanent funds created today will bless the future.

Our philosophy is sound. Our philosophy links in with the philosophy of the best business institutions of the country. Together we are promoting interests of a better day.

These sentiments which I express are taking shape distinctly in the minds of more men, more institutions of various kinds than at any time in the past. We are beginning to realize an essential unity in the midst of very wide differences. This philosophy and the methods to which I shall soon allude are common, not to Protestant Christians alone but to Catholics and Jews as well, and to men, if there be any, who profess no religion. With clear intention I am now speaking in behalf of churches and synagogues of all kinds, including all schools, of every kind, all colleges wherever located, all missions maintained for human welfare anywhere, all charities and philanthropies of all kinds and all races and religions. I am representing in reality and speaking for *humanity* in its needs and in its possibilities. The Committee which I represent undertakes to put the encircling circumference of friendly cooperation around every kind of good works and intentionally leaves out no single one.

Please note, then, that in addition to this sense of inclusion and cooperation and essential unity, I, in speaking for this Committee, am undertaking to think of policies and methods and instruments which will serve all of these good organizations and movements alike, whether they be in New York City or in Chicago, or St. Louis, or Los Angeles, or in any other city in America or in the world.

Corporate Trustees the Safest Custodians of Permanent Funds

Now here are certain convictions which are taking definite shape in the minds of organizations such as these which I represent. We are all beginning to realize that corporate trustees are the safest custodians of permanent funds, the wisest guardians of future benefits. We are, therefore, gentlemen, looking to you and your organizations with expectantcy never before realized. In individual cases we have already turned to you as agents, as custodians, and now as trustees, and this expectation will increase and express itself, not only in conviction but in actual practice in the not distant future. We are realizing that corporate trustees do not die, do not take vacations and travel into far countries, nor ever become insane. They have vaults, they are under bonds, they are regularly and lawfully subjected to examination and inspection, they become experts in security and skill. It is their business and profession to be versed in investment values. Why should we not use them?

We are beginning to realize, and some of us frankly to acknowledge, that the main thing for us in a trust fund is not the principal but the income. Why should we wish to hold the corpus? We are not experts in finance. Fortunate are we to be experts in education, in missionary administration and in other philanthropic and humanitarian endeavors. Why should the corpus come to us? We cannot consume it. The income we wish—the income we use. Some of us are realizing distinctly that the corpus is indeed an embarrassment for the perpetual care of which we are not adequately equipped. Has this come to your attention, gentlemen of the trust companies? Are you prepared to cooperate with us as we, in this manner, are approaching your standards and your methods? Are you making it sufficiently easy for our missionary and educational and philanthropic institutions to employ your expert services?

Why should it not be possible for every trust company in this country and every bank having fiduciary powers to receive, as trustee, donations and bequests from citizens of the community in which they are placed, the proceeds of which may be paid over to organizations seeking to accomplish the welfare of humanity outside of the community throughout this country or anywhere in this world? Why should the corpus of any trust leave any community, in which the donor or testator resides, when donor or testator are planning for the final distribution of estates?

Desirability of Standard Form of Trust

Naturally we are asking for a standard form of trust, for an instrument which has been examined by our

counsel and approved by our boards. An instrument big enough and broad enough and generous enough to serve not simply a community's interests but any and all of our objects whether in one community or in another community or in the uttermost parts of the earth. A standard form of trust can avoid "the blight of the dead hand." A standard form of trust can serve any object anywhere. A standard form of trust can become known and exist anywhere and everywhere. Publicity for a standard form of trust in one place will help a standard form of trust in all other places.

When Bingville College sets out to raise an endowment of ten millions of dollars it expects to obtain that money, first, from its own community; second, from its graduates, scattered all over the earth; and third, from others, large-minded people, also widely scattered.

The graduates of Bingville College go everywhere—to San Francisco, Sitka, St. Louis, Saco, Maine, St. Petersburg, Florida, and all places in between. If Bingville then sets out on a drive and wishes to use a common instrument, it wants that instrument to be wherever its graduates and these large-minded people of means and benevolence may be found. Bingville, then, is interested in a standard trust, known everywhere, available anywhere and always satisfactory because understood and known.

If Bingville can use an instrument with which it is familiar Bingville immediately loses a large part of its desire, if the desire at all remains, to receive a corpus and hold it itself. A standard form of trust will mean, for the trust companies of this country, an open door for all of Bingville's friends to enter and to do business in the place where those graduates and friends of Bingville reside.

Funds Should Remain in the Community

Why should the corpus of a fund for Bingville leave the community where a graduate or a friend of Bingville resides? Bingville's interests, multiplied by the interests of every other college and school and university, are practically universal. They are everywhere. Multiply Bingville's interests by 1300, which is the number in round terms of the colleges and universities in the United States, and see if your imagination can take in the magnitude of a business which might be received by trust companies having fiduciary powers, if all of these colleges and universities were prepared to use these trust companies and banks as trustees of permanent funds, seeking for themselves not the corpus of the funds but the income of these funds. Is there any good reason why every trust company and every bank having fiduciary powers wherever it may be located, should not expect to serve the interests, sooner or later, not of Bingville alone but of every educational institution wherever it may be located, and of every missionary or philanthropic enterprise, whatever may be its objectives, in whatever community or country the income may be expended?

If Bingville wants the *income,* why should the corpus go out of town?

Under the title of Coordinating Fiduciary Objectives we are thinking not only of these 1,300 colleges and universities in our country, but of the interests in local churches and other organizations of about fifty million Protestant Christians, about eighteen million Roman Catholics, of about four million Jews in our country, and indeed of all the millions of the round world concerning whom all the 110 million people in our United States may have good purposes and for whom they may wish to devise some future benefit.

We are thinking of bringing the fiduciary business of more than 2700 trust companies and 1800 national banks which have fiduciary powers into cooperation with these religious and philanthropic plans and purposes. We have already made approaches to the Associations of Life Insurance Underwriters, both national and local, and are receiving at their hands the most cordial cooperation. It is good business for them and it is good business for us to have them, when writing life insurance, write policies which make our organizations ultimate beneficiaries.

When men seek worthy objects the by-products of their seeking ofttimes exceed in value the things which they at first sought. We believe that a trust company, a bank, which undertakes to serve humanity secures as by-products a large amount of business from families and from individuals because of the larger undertaking. And also that life underwriters who are after business for widows and orphans will find that their efforts to promote the things which mankind deem of the utmost importance, help them legitimately in their major pursuit and bring along a multitude of minor benefits. Likewise we are convinced that, when our organizations are seeking to build up and perpetuate the agencies of religion and philanthropy and of good will, they are at the same time promoting every form of wholesome activity, of efficient industry and of sound business in which man can engage.

The word fiduciary at bottom means trust, and trust, back of all its legal and financial aspects, means *morality,* a morality which springs out of character and is accompanied by confidence and credit. We are seeking to make the trusts and the foundations of trust in our country strong. You men build on these foundations. So do we.

We ask ourselves, why should the corpus of any trust go out of town, to any of us, or to any object which we represent? And we ask you, why should the corpus go out of town if you are prepared to receive it and administer it in the spirit of cooperation with the organizations which it might benefit? (Applause.)

CHAIRMAN FOX: The next speaker is Mr. G. Wallace Tibbetts, Vice-President of the Exchange Trust Company, Boston, Massachusetts, whose topic is, "Some Experiences in Developing Business by the Printed Word and Radio." Mr. Tibbetts.

Some Experiences in Developing Business by the Printed Word and Radio

By G. WALLACE TIBBETTS,
Vice-President, Exchange Trust Company, Boston, Mass.

Mr. Chairman and Friends: When Mr. Mershon asked me to come to New York from Boston and speak on new business development he insisted that I consume but twenty minutes. That was his condition. My condition was that I could speak early in the program, so that, during the rest of the three days, I could enjoy myself, and I am glad to be "Number Two" on the program and get this out of my system. I hope you are going to enjoy it more than I do. (Laughter.)

In the title of my talk I see a reference to radio. I did not know I was to speak on that subject, and I would prefer to reserve that particular part of my program for the question period. If there are any questions which you would like to ask about our radio experience I hope I may be able to answer them. I have referred to radio only incidentally in what I have prepared to say.

Four Essentials to Successful Advertising

There must, first of all, be the absolute belief on the part of each employee in the New Business Department that his or her bank is the one best institution engaged in the banking business. Loyalty and knowledge are pre-supposed, but even with these two, unless each employee is one hundred per cent sold on his own bank success is unattainable.

The second essential is a real desire to depart from the conventional way of getting business. I do not mean "stunts" or radical measures, but I do mean that success is not attained by following in the footsteps of other institutions. There must be personality, individuality, different vision, new ideas and development of characteristics as outstanding and clear-cut as are the characteristics of different individuals in society. The third essential is the portrayal of the human side of your institution, here admitting your bank has a human touch on the real things in life.

The fourth essential is a plan or survey of the business or people you seek to attract. You cannot use the same methods and practices in making friendships with all men, hence it follows you must decide what you want in the way of new business and to whom your appeal is to be made.

These then, summing up, are the four essentials: The conviction that your bank is the best institution to serve the public it seeks; an unconventional sales program; new vision and new ideas, and a definite plan. These four aims or purposes you might term mere generalities, things which might apply to any business, and that is exactly what I mean, for our business of selling bank service is exactly the same as selling anything else in the world, but not until we grasp the full significance of that thought shall we be able to approach the subject at all.

We have something very definite to sell, just as definite as bricks or bridges or anything else in the world. How then shall we sell our merchandise? We have successfully tried this plan, and I must be pardoned if I speak of my own bank, because my experience is based on my work with the Exchange Trust Company of Boston.

Planned Newspaper Advertising

We carefully mapped out a series of newspaper advertisements, covering two Boston papers, with weekly advertisements of eight hundred lines each. Each advertisement carried some sort of a picture or some sort of a cut. That seems to be one of the essentials to real successful advertising. The first of the series was aimed to awaken interest in New England as a unit, in Massachusetts, industrially and commercially, and, last, in Boston, not as a tradition or historical museum, but as a center of wealth, industry and population. One New York paper has referred to Boston as "a state of mind"; possibly that is because we have allowed tradition and historical association to befog our vision of what the real Boston is.

We are the second city in the United States, figured on a radius line of fifty miles from Boston Common. I do not know that you men realize that New York ranks first and Boston second, within a radius line of fifty miles from Boston Common; second in population and first in per capita wealth.

We believe that Boston is the best city in the best Commonwealth, and that New England is the best part of the whole United States. That is the first essential of our program. We are one hundred per cent sold on our own city. Incidentally, we in the bank believe that the Exchange Trust Company is the best bank to serve the public it seeks.

The titles to the three advertisements I have referred to will show their character. These titles were, "Does Boston Know Its Strength?" "Why Does Massachusetts Lead in Thrift?" "The Spirit of New England is the Spirit of Enterprise." Those also are titles of the radio talks we gave on the same subjects.

Direct Mail Advertising

These advertisements were aimed to attract the attention of all New Englanders who read newspapers. There was very little Exchange Trust Company in

them. As each advertisement appeared, a full sized proof copy was sent by direct mail to a selected list of bankers, lawyers, real estate men, insurance men, manufacturers and executives throughout Massachusetts and New England, and as you may judge, we covered the ground fairly well through our mailing list of sixteen thousand. Preceding the advertisements, those on this direct mail list were told of our plan and were requested to save the copies as they were received.

We have mailed, from week to week, for the last four months, eight hundred lined advertisements as they appeared in the Boston papers. We realize that most direct mail copy is not read, it is not saved, usually goes into the waste basket—and so we have prepared, from time to time, mailing pieces to compel attention to our copy. Perhaps the one outstanding mailing piece was a three by five index card clipped to a keyed life insurance trust advertisement. You will have to examine this closely to get the effect of it—a three by five index card, on which a reproduction of the handwriting of the President of our company appears. This card said, "I thought this particular ad would hit you just right. What do you think of it? Tell me—have I your right address? And by the way, send for the booklet—it'll interest you! J. J. M." (The President's initials.)

The effect of that particular card was that we had literally hundreds of replies. The advertisement carried in the corner a keyed return coupon. We had hundreds of those coupons returned.

Measuring the Results

As a basis of testing our publicity campaign, we keyed this particular advertisement on Life Insurance Trust and used, beside the Boston Herald and the Boston Globe, two other papers, because we wanted to be sure we were using the Boston papers having the greatest pull. This is the result: From the Boston Herald, fifty-one replies; from the Boston Globe, forty-five replies (those are the two papers we have used throughout the campaign); Boston Post, thirty replies; Boston Transcript, twenty-six replies; and from direct mail six hundred and seventy-five replies. From radio talks on this particular subject, one hundred and one replies; and from scattering sources, one hundred and fifteen replies. We have demonstrated that this one particular advertisement, keyed as it was, is as good as any advertisement we have ever used.

Life Insurance Trust Advertisement

The life insurance trust advertisement, as I have said, carried a return coupon, which coupon requests us to send the subscriber a booklet entitled, "How to Increase Your Estate One Hundred Per Cent," the story of a Life Insurance Trust, written by Mr. Earl G. Manning, General Agent of the John Hancock Mutual Life Insurance Company, and that booklet carried with it a post card for return, which asks us to send a book called "The Life Insurance Trust"—the one printed by Prentice Hall; you are probably all familiar with it. From ten hundred and forty-seven of the booklet, "How to Increase Your Estate 100 Per Cent," we have had almost an equal number of requests for the "Life Insurance Trust" book.

It would have been a perfectly simple matter for us to have sent out the "Life Insurance Trust" book by mail. We did not do it; we had our ten salesmen call on each person who applied for that book, and talk, not life insurance, not life insurance trust, but the services of the Exchange Trust Company. The results have been tangible, the results have been good, but it has only been from hard work, from thought, and by teaching the salesmen what they were to say before they left the bank.

Valuable Lessons Learned

We have been taught many valuable lessons in this campaign. Chiefly, we have learned the value of promoting the interests and income of lawyers, real estate men and life insurance salesmen. We have found that from these three classes more trust business originates than from any other source.

I have said that one of the essentials is to avoid following in the footsteps of another institution. There are, however, certain institutions, outstanding in the United States, whose success is inspirational and calls for keenest study.

Some months ago I had the pleasure of spending two or three days with Mr. John A. Reynolds, Assistant Vice-President of the Union Trust Company, of Detroit, and whether or not you are acquainted with the success of that company in the last five years, I cannot judge, but a part of their success has been due to contacts with the lawyer, the real estate man and the insurance man, and so, to a certain extent, we have followed in their footsteps.

Radio Broadcasts

We have, however, gone a little further than the Union Trust Company program. We have used radio broadcast; these broadcasts, made from the Edison Electric Illuminating Company and the Shepard Stores of Boston, have created more widespread interest and results than the newspaper campaign and the direct mail campaign, figured on the basis of the number of dollars expended. Specifically, from one broadcast in which I made one suggestion that the Bond Department of the Exchange Trust Company would be glad to analyze the holdings of any bond purchaser, we had thirty direct inquiries.

We also had reprints made of the three broadcasts on the general subject of thrift, and have distributed them to our direct mail list. Each one of these reprinted broadcasts also carried a coupon requesting the booklet, "How To Increase Your Estate 100 Per Cent." We are getting an average of twenty-five or thirty requests

a day for this booklet. Each mailing piece and each advertisement is hooked up with the one that precedes it.

Use of Complimentary Letters

One successful piece of direct mail advertising was the reproduction of a letter complimenting us on our publicity campaign, written to us by the Moxie Company. They are a well known advertiser, not in any way connected with the Exchange Trust Company by account or any other association. Attached to the corner of the letter was a little memorandum, which says, "Mr. Martin has asked me to send the attached letter to you. He believes you will be interested in reading what Mr. Archer has to say. It will be very helpful to us if you will be good enough to write Mr. Martin your opinion of our advertising." We sent out fifteen thousand of them, and we had about three thousand replies, every one of them a direct contact with whom we can talk Exchange Trust Company. We have more prospects than we can cover in a year, with our ten salesmen.

A great many letters which came back from the Moxie letter were very complimentary. We have asked permission in some cases to use copies of letters received by us, and while I am here to say not what we expect to do but what we have done, I will leave for your imagination what a pull the complimentary letters will have in the hands of the salesmen. In other words, we are trying to apply salesmanship exactly the same as if we were selling typewriter ribbons or soap or tooth powder or anything else, and it seems to work. I do not know that it has been tried before by any bank, but in our particular case it seems to work among the class of people we are trying to attract.

Serving the Customer

The problem with us is not so much how to get prospects and close sales as it is how to serve the customer after we get him in the bank. All the salesmanship in the world and all the publicity campaigns which have been inaugurated are productive only when the bank has on its shelves to sell the merchandise it advertises.

To be concrete, let me tell an incident which actually happened in a small bank just outside of Boston. The cashier of this particular bank lacked those essentials of hospitality and friendship and friendliness which are certainly necessary in any bank. A large corporation took the second floor above the bank's quarters, a new manager was installed, and the second day after the manager's arrival he went downstairs to the bank's quarters, he was met by a floorman, who took him up to the cashier and said, "This is Mr. So-and-So, of Blank Company, a tenant upstairs." The cashier just raised his eyebrows and said, "Oh, yes." Do you think that bank got the $50,000 deposit the manager had in his pocket? Absolutely not. The man went to the other side of town and connected up with a trust company over there, where he received a hospitable greeting and an invitation to use the facilities of the trust company.

That picture is not overdrawn, it actually happened. I know the people interested in it. The cashier is a good fellow, in the sense that he runs his bank along straight, traditional, hard and fast lines; but he lacks hospitality, he lacks the ability to attract people. And that is our problem, to have our people in the bank at all times and in all places serve as if they were glad to serve and happy to serve.

Making Salesmen of the Employees

Before the campaign started most of the employees of our bank were invited to a dinner, in which this whole method and whole plan and whole layout was described to them, to make salesmen of each one of them. From time to time, smaller groups meet and discuss the problems which come up from customers and from prospects. Each morning our sales group meet at eight-thirty and, for an hour, have a sales talk and comparison of questions which have arisen during the preceding business day. We plan, once a week, to invite a salesman from another line of business to come in and talk to our salesmen.

An exact record is kept of all calls, telephones, letters and mailing pieces sent. Each man in the new business department has a quota to meet, that is, he makes a certain number of calls a day and has a definite amount of new business to be written. We use a blackboard in the Sales Department, and against each salesman's name his record is spread. There is real competition among them; they see the record of each man in black and white.

Outside Contacts

Each Monday morning for the past few months I have been talking to representatives of life insurance companies. The object of each talk is to make as many friends as possible for the bank, by showing that our efforts are aimed to increase the premiums which any insurance man may earn by cooperating with us, either in a life insurance trust program or in any program, to help establish the new era of cooperation between trust companies and insurance companies.

I have spoken to department store executives and sales people, and I have been invited to speak before student bodies. All that means work, real hard work, and I have found that success is never on the bargain counter—we have to pay the price, the full price. There is no royal road to success. At every turn on this road there is just one sign-board and it carries the word, "WORK." The most successful salesman I know is one who spends two hours alone every day, rehearsing his sales talk for the next day, and not until we realize what that sort of concentration means can we, in our new business department, secure the success that is attainable.

The Human Element

President Eliot, of Harvard, has said that "Service rendered to others is the surest source of one's own satisfaction and happiness." That statement is true, of course, when applied to individual situations; it is just as true when applied to business relations.

The outstanding success and foundation of every great endeavor has been built around the personality of some individual. The outstanding evidence of that is the Christian religion itself; other outstanding examples are George Washington and Abraham Lincoln, as great Americans, and Edison in the field of invention, and the mother in the American home—every one outstanding individualities.

There should be in your program an individual or composite personality about whom the human elements of your institution should center. Wisdom and character are necessary, but in sales of your merchandise the human element has the strongest appeal.

I do not know that I need to say any more. I have covered the subject as much as I can within the time allotted me, just touching the high spots. If there are any questions concerning the radio program I would be very glad to answer them. (Applause.)

CHAIRMAN FOX: I am afraid we will have to postpone the informal discussion as to radio until later in the conference, as we are now behind schedule time. We will give Mr. Tibbetts an opportunity a little later on.

The next speaker is Lieutenant Colonel Irving P. Rexford, General Manager of the Crown Trust Company, of Montreal, Canada, who will tell us "How Canada is Developing Trust Business."

How Canada Is Developing Trust Business

By LIEUTENANT COLONEL IRVING P. REXFORD
General Manager, Crown Trust Company, Montreal, Canada

Mr. Chairman, may I first bring to you greetings from the trust company men of the Dominion of Canada? Although I am not officially authorized to speak on their behalf, I know it would be their wish that one of their number, speaking before you this morning, should convey to you greetings and good wishes.

I would like also to thank you for the compliment paid to the trust company men of Canada, by your Program Committee, in asking one of us to address you during this Conference.

You, here in the United States, have been developing the trust company for over a century. We, in Canada, have been at it for less than fifty years. With your earlier start, your larger population, and your greater wealth, you have made stupendous strides in the development of the trust company idea, and we, with a smaller population, a later start, and much less wealth, naturally have not progressed as far in that direction.

Canada's Banking System

I am asked to speak briefly on the development of the trust company in Canada. It would be difficult adequately to explain our system of developing the trust company without making a brief reference to our banking system, because in that respect we differ distinctly from trust companies in the United States. We have no banks in Canada doing a trust company business, and we have no trust companies in Canada doing a commercial banking business. Our banking system is entirely under the control of the federal government, which passes a Bank Act or revises its Bank Act once every ten years, or more frequently if thought necessary. All institutions authorized to do a real banking business are, with the exception of one or two savings banks, chartered under the Bank Act by the federal government, and we have inclined towards the English system of having a few large banks with a large number of branches. Our largest bank has a combined capital and reserve of sixty millions and over seven hundred and fifty millions of assets.

Because of recent amalgamations we have, at the present time, fewer banks than Canada has had for over fifty years. We have in all eleven chartered banks of Canada authorized to carry on a general banking business, which, with one savings bank, are the only ones authorized to use the word "bank" in their corporate name, and all eleven are chartered under the Bank Act. No bank can be incorporated under Provincial authority. We have, as I say, few banks, but they are generally large and have many branches; one bank in Canada has over nine hundred branches. We have four banks which we call the "Big Four," each of which has five hundred branches or more, and those branches not only extend throughout Canada, from coast to coast, but to many parts of the world. The bank with the largest number of branches has approximately eight hundred branches in Canada and Newfoundland, and over one hundred branches in other parts of the world. Some of our banks have as many as thirty branches in one city. Under our banking system the smallest town or village, if it has a bank at all, has one with a national business and large resources.

Business Permitted to Trust Companies

As our trust companies are not authorized to do a commercial banking business they are really similar to or carry on a business similar to yours in your trust departments.

Up to about fifteen years ago trust companies in Canada, when formed, could be chartered by any one of the nine Provinces or by the federal government, and they could secure, under their charter, as broad powers as the lawyer applying for the charter could think of, and the government authority would pass. Starting about fifteen years ago the Provinces began to pass a Trust Company Act, and the federal government also passed a Trust Company Act. Under these Acts, I think in all the Provinces now, trust companies are even prohibited from taking savings deposits, and all trust companies incorporated recently—that is, within the last fifteen or sixteen years—are incorporated under one of those Trust Company Acts of either the federal government or of one of the Provinces. Therefore, only the trust companies incorporated fifteen years ago or longer than fifteen years ago are allowed under their charters to do a savings bank business. None do a commercial banking business. Even the trust companies that are allowed to do a savings bank business seldom push that branch of their work to any great extent.

The first trust company to be organized in Canada began business in Toronto in 1882. In 1889 in Montreal the first safety deposit vault in Canada was built and opened for use by the public.

Directors of banks are often directors of trust companies and, for that reason, perhaps, it is natural that in some cases there is a real business association between a bank and some trust company, and that our trust companies should, following the practice of our banks, have branches throughout the country. We do not in any case have two branches or offices of the same trust company in the same city, but some of our trust companies have branches in the main centers of population, from coast to coast, and some have branches in London, England. The maximum number of branches is twelve to fifteen, even of the largest trust companies.

The largest trust company is The Royal Trust Company, in Montreal, with total assets of over three hundred and fifty million dollars. It is associated with the Bank of Montreal. Mr. R. P. Jellett, Assistant General Manager of The Royal Trust Company, was asked to speak in the place which I am now filling, but, unfortunately for you and for me, he was unable to be here.

The titles of our trust company officers are somewhat different from yours. Practically in no cases do we have a president giving his whole time to the business. Our senior executive officer is usually known under the title of Managing-Director or General Manager or, perhaps, Manager; the President usually is only Chairman of the Board of Directors, and Vice-Presidents usually, but with some exceptions, act as directors, but our Presidents and Vice-Presidents do not as a rule give their whole time to the business nor receive an actual salary from the trust company apart from their fees.

As I said before, our business is really the business of your trust department in its broadest sense, although some take savings accounts. We often issue guaranteed investment certificates against funds received, and those funds are usually invested in first mortgage loans. Trust companies in Canada do a large business in first mortgage loans. We have our mortgage loan companies but trust companies have also entered that field, and it is partly because of that class of business and the higher rates which were available in Western farm loans and other Western loans that trust companies have developed branches through the West. We act as agent to receive funds from individuals and corporations and place them on call loan, charging them a fee for handling and for guarantee.

We act in all the recognized trust capacities for corporations that your trust companies act in.

Many trust companies do an insurance business as agents, but the tendency is lessening in that direction because of a little opposition from the insurance underwriters themselves. We do not place life insurance.

Most trust companies carry on or operate an active real estate department, handling, as agent, almost any class of real estate business.

I know of no trust company in Canada operating a bond department, that is, underwriting and selling to the public or clients bonds underwritten by the trust company.

All trust companies do operate investment departments, where advice as to investments may be obtained as a service. In no case in Canada do I know of a trust company operating under a separate charter, in order to separate the legal responsibility, the business of its safety deposit vault department. There is one case in Montreal where a trust company has moved from the building containing its vault and has since operated its vaults under a subsidiary charter, but I know of no case where it is done for the purpose of limiting the legal liability of the parent trust company.

Fees Not Fixed by Law

Our fees in Canada are usually not set by law but set by mutual arrangements or by competition. Through an investigation which I made three years ago, I discovered, rather to the surprise of myself and my fellow officers in Montreal, that the fees charged in Montreal for the usual services of trust companies, such as acting as executors under wills and handling trust funds were lower, I think, than anywhere else on this continent. Our usual charge for handling an estate is approximately one per cent of the capital for estates of moderate size, for taking it over, adjusting its affairs generally and getting it under way; an annual fee of four per cent of the income earned from stocks and bonds, five per cent of the

income from real estate and mortgages, and finally when the capital is distributed, one per cent of the capital again. For larger estates these fees are moderated. For handling trusts the fees are just the same, although generally there is no acceptance fee.

Where we act with individuals as co-executor we do not share our fee with them. The individual acting as co-executor does not receive remuneration, unless the will itself gives him or her a special remuneration. We have found, in some cases, a little difficulty in having an individual executor understand that the trust company should control all the records and securities and the bookkeeping and, for that reason, we are trying to get incorporated into all wills naming us—where other individuals are named—a clause naming us as managing executor for the purpose of holding the securities of the estate and keeping all the records.

Publicity Methods

Now, in regard to our methods of publicity, I am quite sure that none of those which we employ are new to you, and I will, therefore, only briefly review them. Before doing so, I should like to point out that I have had the privilege of studying some of the methods of the largest trust companies in the United States, in Boston, Philadelphia, New York, Buffalo, Detroit, Cleveland and Chicago, through the very great kindness of trust company men who have given me that opportunity, and as we are members of the Trust Company Division of the American Bankers Association and subscribe to the work of their Publicity Committee we do base a good deal of our publicity on suggestions which they provide, so no doubt many of our methods are the same as yours.

We, of course, use the newspapers. We have a carefully prepared mailing list, and we send to that mailing list an annual calendar. We have selected a design which we think is suitable, and while the colors change each year the design itself is practically identical, and that goes each year, at Christmas time, to the people on our mailing list. This calendar hangs in their home or office as a reminder of our company throughout the year.

We also send out, at regular periods to the names on our mailing list, booklets and leaflets describing our services and occasionally a carefully prepared letter or letters to some of the names, asking for a special opportunity to call on them or have them come to our office to discuss services which we are able to offer.

We use window displays occasionally. We always write to a client who opens a new account in any department, thanking him for doing so, and pointing out the service which we are able to render in another department. If a man rents a safety deposit box or opens a new savings account—because in our case we do a savings account business—we write a letter thanking him; the letter is signed by the senior officer of the trust company, it is written on the senior officer's own letter paper, and we invite the new client to come in and visit our vault or to use the trust company services in any other direction that may be useful to him at any time.

We have no exclusive new business solicitors. In connection with our real estate work we have three or four men who are more or less outside men, each having their own motor car, and their work takes them out examining property, making appraisals, showing clients and prospects different properties, and doing work of that kind. They are specially trained to know the work of all departments, so that in their contact with prospective purchasers of real estate, as they drive them to see property, or as they deal with other clients and prospects, they are able to discuss any phase of the work which we are able to do. We try to keep our general staff, particularly the seniors and department managers, thoroughly informed in regard to as much of the work as they can reasonably be familiar with, so that they will be able to represent to clients of their particular departments the general services which we are qualified to render.

We try to be ready at any time that one of our officers is invited to do so, to give a short talk to gatherings of associations, clubs and other groups, not only on our particular kind of work but on any subject that the gathering would like to have us talk on, and we feel able to handle after preparation, and we take great pains to prepare the talk in that case, so if a representative of the trust company does address such a gathering that representative will try and make a favorable impression. I do not claim for a minute that that is being done at the present moment. (Laughter.)

We are always ready to allow small groups of responsible citizens to use our board room for committee meetings or other similar gatherings if they can make use of it.

We naturally keep our shareholders thoroughly informed at all times, generally by personal letters sent with the quarterly dividend cheques, in regard to the different kinds of work we are doing and, of course, particularly if any new departure is decided upon or a new department opened. We show them how much they can help by talking to their friends.

One of our trust companies has a rather interesting feature in connection with its annual meeting. The annual meeting takes place at twelve o'clock noon and lasts a little less than one hour. They have their head office building directly across from a large hotel, and all those attending the annual meeting are invited to go to the hotel and have a buffet luncheon, where they are able while lunching to move around—practically as ladies would do at an afternoon tea. The officers of the trust company make an effort to get in touch with and make themselves known to every shareholder present and try to let him realize the broad amount of work that a trust company is qualified to do, and point out to the shareholders the many times they would have opportunities of presenting to the public, with whom they are acquainted, the work that their particular trust company is able to undertake.

I know that in this talk I have not told you anything new, but I am glad to have had the opportunity of briefly telling you something about the trust companies in Canada. We are following in your footsteps. There is, perhaps, one phase of our work where we can stand on a platform equally high with yours, and that is our determination to make the name trust company stand for something really worth while. We are proud of the record so far made by the trust companies in Canada. The officers of the existing trust companies are determined to keep the name good, and a trust company in Canada is recognized, as it is here, as standing for something perhaps a little bit different, a little bit better than any ordinary business. I thank you. (Applause.)

CHAIRMAN FOX: The next speaker is Mr. Lawrence J. Toomey, Trust Officer of the Union Trust Company, Detroit, Michigan, whose topic is, "Shall We Try to Secure Appointments as Receiver?" Mr. Toomey.

Shall We Try to Secure Appointments as Receiver?

By LAWRENCE J. TOOMEY
Trust Officer, Union Trust Company, Detroit, Michigan

Mr. Chairman, Ladies and Gentlemen: I am indebted to Mr. Mershon for being made to feel perfectly at home here. He has allowed me to follow Mr. Tibbetts on the program. Mr. Tibbetts is a leader and a representative of the New Business movement, and any of you gentlemen who are engaged in the more or less arduous duties of taking care of the administrative end of estates all know that you are never at home in any trust company unless you are following about three steps behind the New Business Department—you are always behind, you never catch up with them.

Seriously, I want to say what I have often thought, that while a lot of us occasionally believe that all new business departments are apparently committed to the policy of what I might call the infallibility of the trust companies, I believe that they are a real, actual and very remarkable stimulus to the proper administration, development and handling of estates. I never knew a new business man yet, or saw one, who could not in five minutes think up more new things for the trust company to do than any trust company officer could find ways of doing in five days; but their value lies in the fact that, after you have thought for five days, you find out he was right in the beginning and you can do it. I think that is the reason many of us think a lot more than we would if we did not have our new business men. Mr. Tibbetts and Mr. Reynolds may meet me in the lobby and remunerate me properly for this tribute—I expect they will. (Laughter.)

A few months ago, a little before the Regional Conference in Seattle was held, I received a letter from Mr. George Peterson, Secretary of the Bankers Trust Company, of Salt Lake City, asking me for such ideas as I might have on the desirability, possibility and feasibility of accepting appointments as corporate receiver. I had a few ideas and, at Mr. Mershon's suggestion, wrote Mr. Peterson and outlined my ideas to him. Later on I had the privilege of studying the paper that he read at the Seattle Conference, and I must confess that I was greatly surprised to find a total lack of any organized effort on the part of any trust companies, anywhere in the country, to attempt to keep after or to develop business of this sort. I got in communication with Mr. Mershon and, as a result of that communication and of the following correspondence, I am here today.

Little Attempt to Get This Business

One very curious fact that I want to call to your attention, to show you how little real thought, in my opinion, has been given to the underlying possibilities of a business of this sort is this: Prior to Mr. Peterson's talk in Seattle, last August, there had not appeared, so far as the records show, any discussion at any of the American Bankers Association conventions, in the last decade, on this subject. There appeared in Trust Companies' Magazine, some time last summer, an article along those general lines, which had more to do with the rehabilitation and the redevelopment of more or less lame, halt and blind corporations than with actual receiverships. But we jump back from there to the year 1918, seven and a half or eight years ago, before we find the subject sufficiently well thought of or of sufficient interest in the minds of any trust company officers to justify any exemplification of their thoughts in Trust Companies' Magazine. In the decade before that, from 1910 until 1918, there were perhaps a half dozen miscellaneous articles bearing on various phases of this particular subject. You see, that takes us back about fifteen or eighteen years. In the first ten years of that period, there had apparently been a good deal of business of this sort by the trust companies, but, it seems obvious to me—judging from existing records—that there has not been any great attempt on the part of trust companies to get that sort of business in the last five years anyhow, and perhaps in the last ten years.

Little Specific Information on the Subject

I was curious to find out why there had not been any effort, or why the business did not seem desirable, or why, if a receivership were granted to some trust company, it did not make any attempt to follow it up and see whether or not any business of that sort could be obtained, or to see whether it was desirable to obtain business of that nature.

I do not want to go into this subject in detail. As you can perhaps understand from the brief preliminary outline I have given you, there is so little specific information on the subject that I submit no talk could do any more than touch the high spots, pro and con, and leave it to yourselves to decide whether or not the question, which I am to discuss this morning, should be answered "yes" or "no."

Why Trust Companies Object

I sent out some letters, studied Mr. Peterson's correspondence, and found, generally speaking, that the objections—let us take the objections first, and we will see if there are any proper answers to them—that trust companies have to accepting business of this sort fall into four subdivisions: The first one seems to be that most trust companies feel that they are not properly equipped to handle business of that sort. The second seems to be—I do not intend to give them in the order of superiority or in the order in which the replies outnumbered each other—that the fees which could be obtained from receivership business are entirely inadequate. The third, and this seems to be a particularly tender point with trust companies that do a banking business along with their trust business—may I say in passing, that we in Michigan are obliged to stand or fall on our trust business alone, we are in one of the few states where trust companies are allowed to do only a trust business and no banking—the third point seems to be that there is a grave possibility and more than a grave possibility, there is a very real probability of creditors who are also banking customers, making it embarrassing for one department or the other of the company, either for the banking or trust department; and the last point is that it is often very difficult to overcome a certain prejudice that seems to exist in some centers, on the part of a great many attorneys, against having a trust company act as a corporate receiver of some sort.

Now, if those points are well taken, if they are more or less unanswerable, you have a pretty serious indictment of the desirability of our taking business of this nature. They go on and expand their ideas, and say something along these lines: they object to taking business on the ground that they are not equipped, they claim that it is absolutely impossible for any well meaning trust company to carry on a proper receivership, unless it is willing to have a specific, separate unit or department, which will do nothing else but that, and that is too costly. I think the first part of the point is very well taken.

They go on to say that the nature of the work is such that the department—let us talk about a small department, first, because that is what most of my replies are based on—a small department at times will be extremely busy with a tremendous amount of detail and executive work, and at other times have an extreme amount of leisure; and that some of the officers of the company, and some of the directors of the company do not like the idea of allowing any one department to stay particularly idle for any one long space of time. There may be some merit in that contention.

Must Be Independent Department

If any of you are desiring or thinking of establishing liquidating departments, you must commit yourselves to the policy of giving the work to an independent department, of allowing that department to show a slight financial loss for the first few years of its operation in a small community or small trust company. Unfortunately again I cannot speak with accurate knowledge from that point of view as I am in a large community with an extremely large trust company, and we have been, financially, extremely successful, so far as our liquidation department is concerned, but I think you ought to take that as the first and perhaps, as the cardinal premise. Do not go into it unless you are willing to delegate to that work some trust officer, some capable man who will do nothing but that sort of work.

Following out those lines, you are going to find the objection that the man you are to get must be technically well equipped, and to find the man who is technically equipped to administer a department of that sort, you have usually got to pay more than you care to do. Well, I can only give a theoretical answer to that theoretical objection, that would be that if your trust company is not of sufficient size nor in a community of sufficient size to justify the establishment of a separate department do not accept trusts of this nature. If, however, you are of the opinion that your community will justify the establishing of a department of this sort, and if they are willing to allow the department to attempt to be self sustaining over a reasonable period of time, but do not care to develop a sizable organization with the possible result of showing a very material loss, then let the general supervision of the work be delegated to one man of reasonable intelligence, who need not have any technical training, but let him be under one of your trust officers, who has sufficient legal knowledge to steer him right.

Two Classes of Liquidation

You are going to run into liquidation of two classes, the sort where you immediately begin to wind up the assets, and the sort of liquidation where you continue to

run the business. If you start a receivership of the former sort, where you are going to liquidate and then make a distribution, you will not need to solve so many detailed administrative problems, you will be guided largely by the advice of the attorney for the estate. In a great many cases, do not forget that the attorney should be the attorney who is responsible for bringing in the business. I cannot think of any way in which you can co-operate with the bar in a more happy and felicitous manner than by laying down a general principle of retaining as attorney for the estate the attorney who brings the business, providing there is no breach of trust company ethics in such retention. That is going to get you a long, long way on the road to success with co-operation with the attorney. If your liquidation is of the sort where it appears for the best interest of all concerned to operate for some time, then every caution should be exercised before the acceptance of the trust to prevent the adoption of a policy which may result in a manufacturing or operating loss. Obviously, economies of some sort may be instituted, but care should be exercised that in the desire to cut operating costs the other extreme is not reached and essential men dropped from the pay roll with a resulting loss of efficiency and profit. Obviously, a receivership of this sort should require constant executive and accounting supervision during its continuance.

Lucrative Receiverships

So far as the profit taking is concerned the general criticism seems to be that the fees receivers generally are allowed are inadequate, are insufficient, and that we do not get anywhere near the amount of money for the work done that we received from other trusts. That is a question that cannot positively be answered in my opinion either in the affirmative or in the negative. I am a little afraid that some of the objections are based largely on the experience that some of the companies that wrote to me had with bankruptcy matters. The Bankruptcy Act does not, as you know, allow large fees. I think, perhaps, in their enthusiasm (if I may call it so) to reject business of this nature, they have forgotten that there are many more types of receiverships which will be properly lucrative. For example, there will be the various receivership proceedings growing out of Federal or State Court litigation, and which involve the winding up of a corporation which is not insolvent or the reorganization of a corporation which is temporarily in financial difficulties; there will be assignments for the benefit of creditors, a sort of trust which we not infrequently find in our jurisdiction; there will be receiverships pending the adjudication of accounting suits; there will be receiverships pending a determination of property rights; there will be receiverships pending the termination of divorce proceedings. In all matters of this sort, you will rarely find any statutory restrictions upon fees, you will rarely find that you are hampered in the administration of the trust by legal limitations, and you will most frequently find that the fees allowed you are completely commensurate with the work you do.

Impartiality in Administration

Now, to go on to the point that creditors who are banking customers will interfere with you—naturally, that is a matter that I can not discuss with any degree of personal knowledge. As I have said, we do not do a banking business, and consequently have no customers who could object to our enforcing the often strict rule of receiverships, and back up their objection with insinuations that might terrify the banking department. I can again give only a theoretical answer, but it seems to me if the officer in charge of your liquidation is blessed with any reasonable amount of tact and a fair degree of persuasiveness, he should be able to make any irate banking customer see the reasonableness and the necessity of carrying out all of the safeguards which the various laws throw around the administration of liquidations for the purpose of protecting creditors, but which often in order to achieve their purpose result in necessary delays which prevent the trust company from acting as it might personally like to do. I think that you will find that if you are insistent upon complete adherence to all moral and legal restrictions, and if you are able to show the company's client that you are only giving this particular trust the care and protection that you would give any trust of his were it under your control, that you will have made some progress towards converting him to your view point. This complete impartiality in administration is, I think, one of the most potent arguments for the appointment of a trust company in any capacity. It has been my experience, that while a policy of this sort may at first lead to a more or less minor degree of displeasure among parties interested, who feel that their theories of administration should be followed, you will find that almost invariably they will eventually heartily agree with you, and will be loud in their praises of the desirability of any administration carried out without regard for the passions or prejudices of anyone.

Co-operation with Attorneys

The last point, that the attorneys are hostile, is a very delicate question. I think I may say for all of the trust companies in Detroit, that they have succeeded remarkably well in gaining the co-operation of the attorneys. Some of the letters I have received seem to indicate that in certain centers, certain communities, certain parts of the country, there existed what might generally be termed—well it was termed in one letter "The bankruptcy ring," it was termed in another letter "The group of attorneys who seem to dominate our District Court," it was termed in another letter "The crowd of lawyers who seem to have sufficient influence in the appointments of our local Courts to see that friends of theirs, and no trust companies, get appointments."

That is an extremely serious indictment. I think that the truth, the strength of that indictment, if there be any truth or strength in it, is an accusation of the trust companies just as much, if not more, than it is of any attorneys. I think that any place where the spirit of the legal profession is along those lines, must be a place where the trust companies are for one reason or another slow to impress upon the attorneys the fact that we are not in existence to compete with them, that we exist to work with them, that they have their particular place in the administration of estates of all sorts just as we have our particular place, that there are certain functions which they can perform more properly and more efficiently than we, just as there are correlative functions which we are able to perform better than they, that we present a splendid medium which they may use for the development of a fiduciary practice which will allow them to relieve themselves of the burden of detail work, and will permit them to act almost entirely in their proper sphere, that of counsellor and legal adviser, a medium which will result in less labor for them, a more speedy administration of the estate and a greater degree of satisfaction to mutual clients. I believe that the reports of our Committee on Co-operation with the Bar will show that wherever the trust companies have made any organized and proper effort, and have gone half way and more than half way, to convince the attorneys of their neighborhood that they are not trying to work in competition with them, but are trying to work in conjunction with them, the results have been very happy for both lawyers and trust companies.

I wish I were able to go into more intimate detail, instead of being forced to outline in this very inadequate fashion, a most important subject. Almost any one of the points which I have raised could in itself be the subject of a very lengthy presentation, and I think of a very ardent discussion. I cannot avoid the conclusion that the manner in which I am forced to present this matter to you this morning is completely inadequate and out of proportion to the importance of the subject. About all I may hope for, I suppose, is that you are in a sufficiently receptive mood, and that I have been fortunate enough to present a salient point which may result in starting a train of thought that may culminate in a definite conclusion as to the desirability of accepting receiverships. When Mr. Mershon wrote me he said "remember, no souls are ever saved after the first twenty minutes." Incidentally, while Mr. Mershon carries out the duties of his office in such an exemplary manner, I cannot help but feel that if the letters he has sent me are any examples of his literary ability, that his talents are being wasted in this work. I trust his secretary is keeping duplicates, so that his estate will receive a magnificent monetary result for those letters after his demise. However, as he said "no one is saved after the first twenty minutes." He apparently does not believe in predestination; I will go along with him and say I do not so believe, and, if by taking a little less time, I may save more souls than I would if I took more, I will do a little evangelistic work and sum up very briefly.

Necessity of Preliminary Survey

Now the summing up is going to consist in a confession to you that honestly I do not know whether the question "shall we try to secure appointments as receiver" should be answered "yes or no." I am inclined (this is my personal opinion) to believe that it can be answered "yes" in a great many more instances than it can be answered "no," but I am even more strongly inclined to suggest that we may most frequently use the good old equivocal answer "yes and no" and justify that answer by saying that each particular receivership that is offered you or each particular receivership which you might obtain should only be accepted or rejected after a careful study has been made of all of the surrounding circumstances. This would primarily seem to imply a material delay which will militate against getting any business, but the point I wish to make is that a comprehensive survey must, and can be made, with great rapidity of any trust of this nature which you are proffered.

Desiderata of a Profitable Receivership

Now, no matter how many objections I would present to you, and no matter whether you agree with me or whether you find adequate answers to all of the objections, no matter if we viewed this question from all possible angles and argued it from all conceivable premises, I think that for the purpose of giving ourselves as definite an answer to our question as we generally could, we would come down to this particular basis, assuming that first of all, no trust company can take liquidation business unless it is in a community sufficiently large or industrially active to have some liquidation. We must conclude that our first fundamental is that just as in any other branch of trust company activity, you must not expect any department to do its own work and somebody else's work as well, so you cannot expect any liquidation department to have any hope of success if it is going to be made the orphan or step-child department of your company. I do not care whether you are administering estates; whether you are acting as executor of wills; whether you are acting as guardian of mental incompetents or minors; whether you are acting as trustee or agent, as depository or any one of the number of things that a trust company may do, you can not ask any one department to take up in addition to its own technical work a task which is obviously technical in nature, and expect to have that task properly accomplished; it just can not be done, and you will create no good will for your company and gain no sense of self satisfaction for yourselves if you try to do it; so, obviously, and at the risk of being accused of undue and unnecessary repetition, I must say that if you can not establish a separate department for this work or at least

such a modification of a separate department, as I previously outlined, you should under no circumstances attempt to accept these trusts.

Individual Attention to Each Trust

If you take then, as the first fundamental, the isolation of the department, if you grant that you must leave it alone and let it work out its own financial and fiduciary salvation, we then come to the second and final fundamental, as it seems to me, and that is one which is not only a fundamental of liquidation work, but of all trust company work, the double ideal of impartially administering each and every separate trust individually and as though it were the only trust that your great organization had to administer. You can not allow any officer, any employe, any department, to become obsessed with the idea that a volume of work or the acquisition of important trusts or clients can possibly result in lessening by the slightest degree the whole-hearted, complete and individual attention every client must receive. I have already indicated to you my sincere belief in the desirability of strict adherence to the doctrine of impartiality, and gentlemen, let me insist that unless you, yourselves, can honestly believe and convince everyone who works for you, and whose affairs you handle, that you are administering their particular trust in complete accordance with the law, and for the individual benefit of every individual interested, you will not be a successful organization, nor would you be able to have a just degree of pride in your own achievement. In this particular subject you must sell yourself on the desirability of the work, and then make everyone, creditors, attorneys, petitioners, the bankrupt, the assignor, the stockholders of the corporation, the directors of the corporation, feel as though they must come to you for impartial adequate advice on how to liquidate their business.

A Foundation of Service

If you want to start a liquidation department, start it; let it run by itself, but insist that underneath whatever technical ability you require, that underneath whatever particular special duties your men are going to be asked to perform, they must have that particular foundation of the thought of giving service. I do not want to seem too idealistic, too theoretical, or appear to be preaching, but I am, to use the colloquial phrase, sold on the idea that you have to give everyone all of your ability if you are going to make a friend of them for future trust business.

In conclusion, may I leave just this one further thought with you. We have, you know, carried out the particular ideal of trust company service to the nth degree in matters of personal trusts, and in matters of custodianship, in administration, in safekeeping, where we have convinced ourselves and the public that the trust company is a place where the individual can come and expect complete, impartial, human co-operation and advice. May we not now give some thought to proceeding one step further, and see if we cannot convince ourselves and our prospective clients, that our particular and peculiar talents can be applied just as well to the field of corporations as the field of individuals; that as we serve the person, so may we serve the firm; that as we equip ourselves, train ourselves to help in the administration of the family trust, so may we equip ourselves and train ourselves to handle the corporate trusts, and thereby fulfill in a more complete degree what I conceive to be our proper destiny, service to all.

CHAIRMAN FOX: The last paper this morning is on "Bank Operations and Earnings as They Affect the Trust Department," by Mr. E. P. Vollertsen, Controller of the National Bank of the Republic, Chicago. Mr. Vollertsen.

Bank Operations and Earnings as They Affect the Trust Department

By E. P. VOLLERTSEN
Controller, National Bank of the Republic, Chicago, Illinois

Mr. Chairman, Members of the Trust Company Division of the American Bankers Association, and Friends: In these days of close competition, much is said and more is written about the narrowing margin of profits in industry, but only occasional reference is made to the narrowing profit in banking.

Narrowing Margin of Profit

In 1923, the combined number of banks of the Federal Reserve System showed 31.9 per cent. of their gross income taken in interest paid. In 1924, it mounted to 33.2 per cent., while for the fiscal year ending June 30, 1925, it increased to 35 per cent. In a certain typical large bank, the percentage taken by this item increased from 25.5 per cent. in 1921 to 30 per cent. in 1922; to 31 per cent. in 1923; to 32 per cent in 1924, and to 34 per cent. in 1925. The interest paid is practically beyond the control of an individual, and even concerted action on the part of all banks will be seriously limited by world finance and economic conditions. (Figure No. 1.)

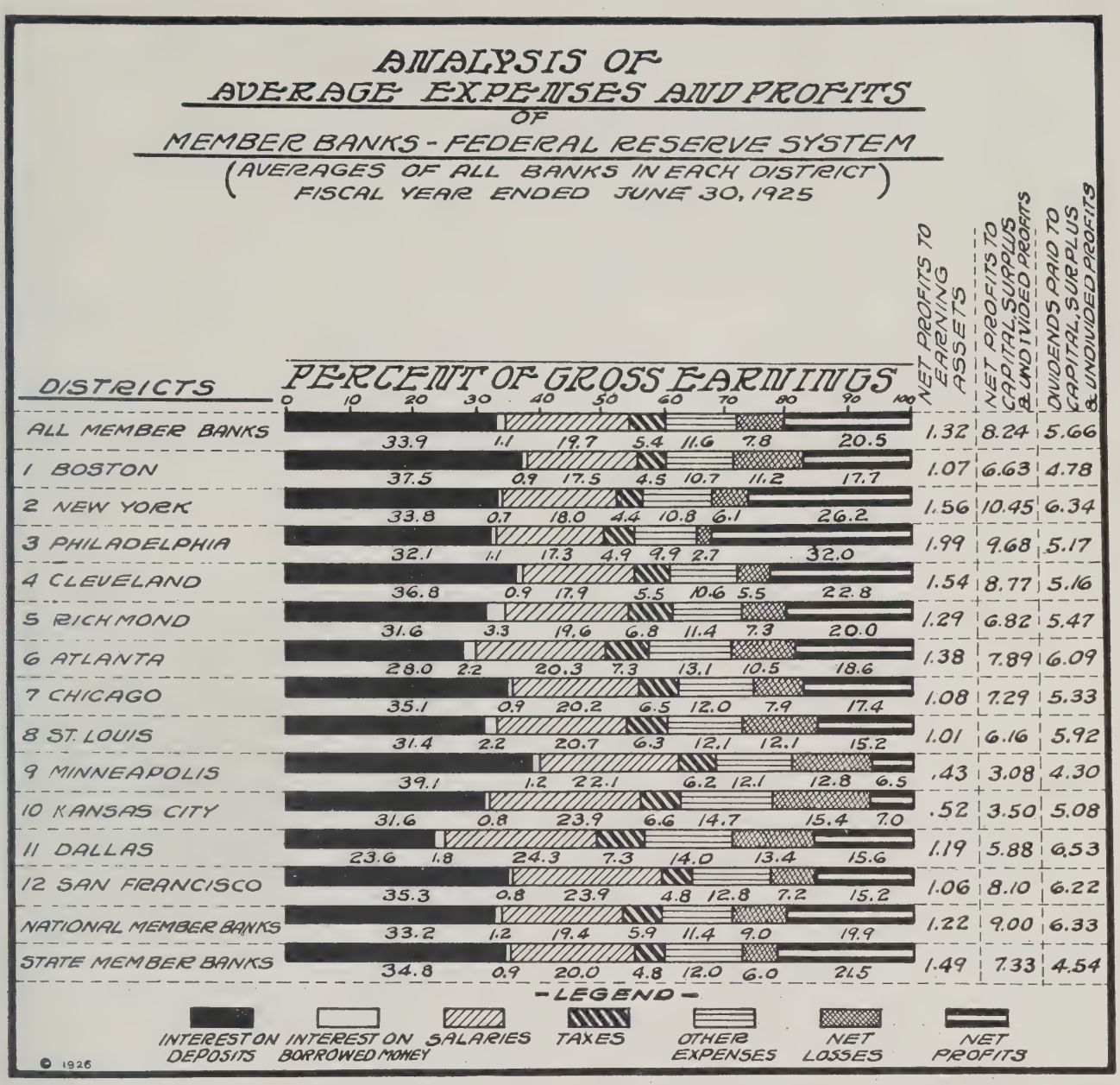


Figure No. 1

While the percentage of gross income disbursed as interest paid has been increasing, other expenses have not been decreasing in proportion. Salaries and wages are increasing, and their percentage of the gross income remains approximately constant. The percentage taken by losses shows decreases of fractional percentages.

A recent number of the Federal Reserve Bulletin shows an increase in the percent of profit for the fiscal year 1925 over the year 1924. The next sentence, however, states that this increase was derived from sources other than normal banking business, and was due in large measure to the taking of profits on advances in security values. If this source of income were eliminated, the figures would show a decrease in the rate of profit for the past year over the preceding year.

The situation revealed by these figures requires the most careful attention of every thinking bank executive. The day of chance again is passing, no longer is it safe to trust to luck and "rule of thumb" methods; decisions must be based on facts, and the time has arrived when classified and detailed facts concerning bank operation are essential to profitable bank management.

The Control of Operating Costs

From what has been said, it is evident that it is practically beyond the control of banks to control the

interest paid, especially in the absence of concerted action. The bulk of the cost of bank operations, commonly described as salaries, wages and other expenses and losses are however to a certain extent within the control of the individual bank. It is to a consideration of these costs and the factors on which they depend that I shall devote my time.

In order to study the problem of bank operations in a worth while fashion, we must have three things: First, a point of view; second, an understanding of what is meant by "scientific method"; third, a fearless application of this method to the case in hand. The point of view is an unconditional demand for the truth. By "scientific method" is meant intelligent observation, impartial analysis and a logical conclusion, regardless of any preconceived ideas on the part of the individual making the decisions. By fearless application is meant exactly what it says—nothing is too sacred, too old, or too customary to be changed.

All banks cannot maintain elaborate research departments; no bank is so small, however, that it cannot afford to have such a study made for it or that it cannot at least duplicate this attitude of mind, "What are we doing? How are we doing it? Are we doing it right?"

Operating Standards

"Know thyself," one of the oldest of proverbs, is very applicable here. To be successful, a bank must have standards of operation and then measure actual accomplishment against those standards. The facts from which many of these comparisons are made exist in whole or in part in the daily records commonly kept; all that is necessary is to have them regularly and properly collected. In a majority of cases, this will require the time of not more than one individual; in the smaller banks, less than this. Banks do not hesitate to install specialized machinery, they should not hesitate to set up a mechanism which will provide them with the facts on which they may safely base their operating policies, and, gentlemen, do not forget this, that unsound policies produce more loss in the long run than wrong methods.

A prerequisite to starting the work is the availability of a thoroughly trained specialist who should possess the following qualifications: Tact, co-operative spirit, analytical ability, poise, persistence, thoroughness. The success of this work will depend, to a large extent, upon the co-operation among the officers, the department managers, the employees and the specialist. It is essential that this co-operation be obtained before the work is actually undertaken. This may be done by a frank exchange of views, the publication of a statement by the chief executive officer, setting forth the purposes of the survey and the benefits which are expected therefrom. In surveying the operations of a bank, we must consider three things: First, the organization; second, income and expense; third, departmental volumes and costs.

Problems of Organization

Let us first consider the organization of the bank. A serious weakness in banks is to allow the problems of organization and readjustment to drift. One of the greatest problems of bank operation is that of internal organization; the organization of a bank is its framework, and if this has not been properly developed, the bank cannot and will not function efficiently and profitably. One of the first steps, therefore, is to study intensively the existing organization.

It is astonishing how little attention has been given to this matter by most bank executives. Few banks are organized on a functional basis, and few bankers have any clear understanding of the functions of a bank. Growth in most banks has occurred without much thought being given to this subject. As a result, the organization is largely on a personal basis, that is, the work is related and united through the persons responsible for it, with only superficial attention to the inter-relationship of the various phases of the work.

First Steps

A bank should be organized on the basis of its functions or activities, and these activities should be brought into their normal and logical relationship. The first step in dealing with the organization of a bank is to analyze its various functions into groups of similar activities. Each of the principal sub-divisions or major groups demands all the time of an experienced and efficient specialist as its head. The analysis should be continued so that the work of a principal group may be divided into such units that less experienced and highly trained persons may be placed in charge of them. Such secondary sub-divisions are represented by departments. The analysis should be carried down to the work of each individual employee.

Case of a $15,000,000 State Bank

An excellent illustration of these general statements is found in the case of a $15,000,000 state bank. In this bank, the major functions are new business, operations, loans, investments, trust and control: new business, the function of obtaining additional working resources; operation, the function of the internal handling and recording of the bank's resources; investments, the function of the purchase and sale of investment securities and the recording of these transactions: loans, the function of a proper utilization of the loaning resources; trust, the function of service in connection with trust and allied activities; control, the function of determining the facts which reflect the results of the foregoing activities, and which serve as a measurement of managerial ability. The unsatisfactory manner in which the internal work of the bank was carried on will be shown in the next picture. (Figure No. 2.)

This is the organization chart of the bank just described before steps were taken to organize its work on a func-

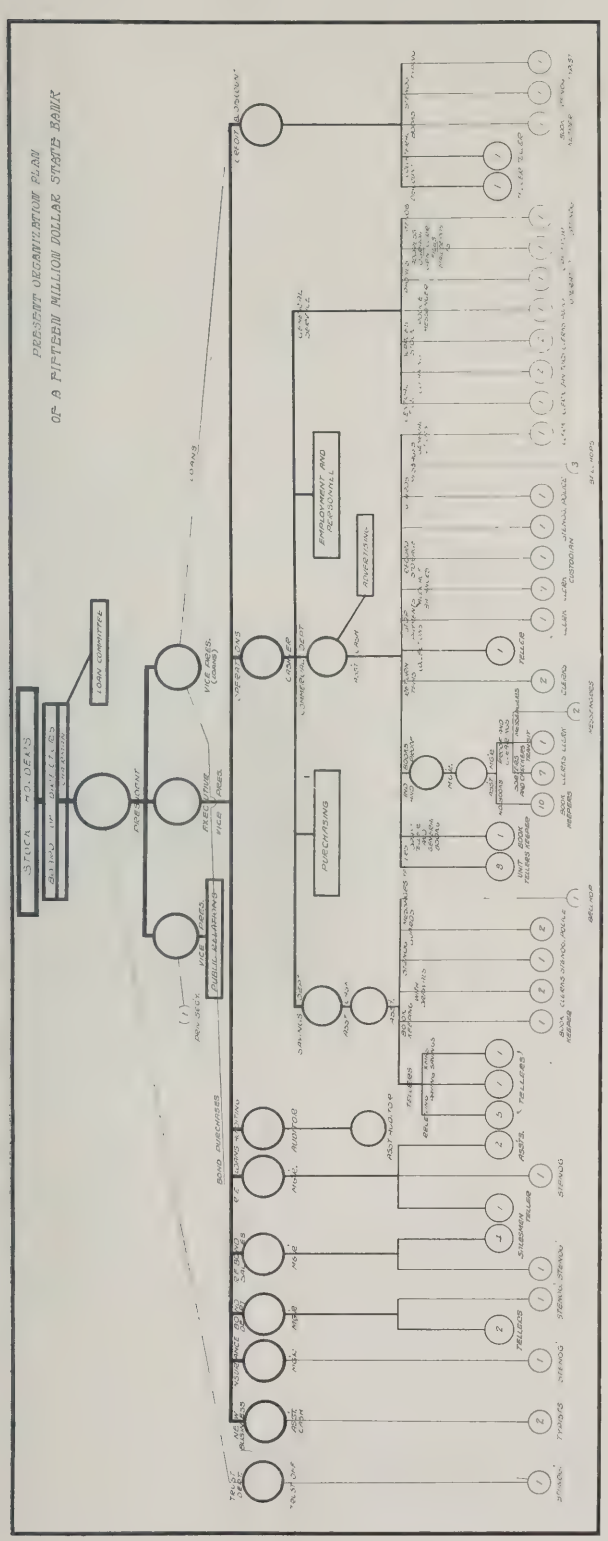


Figure No. 2

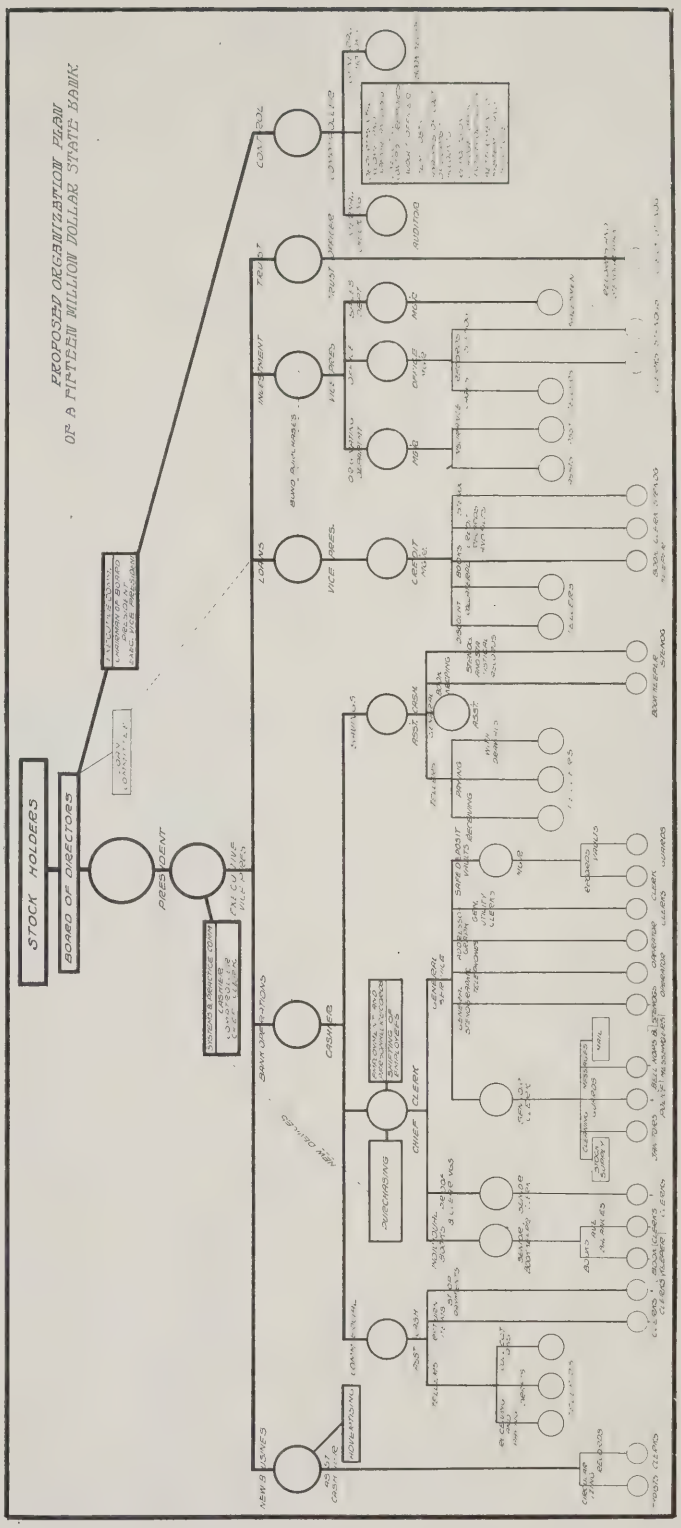


Figure No. 3

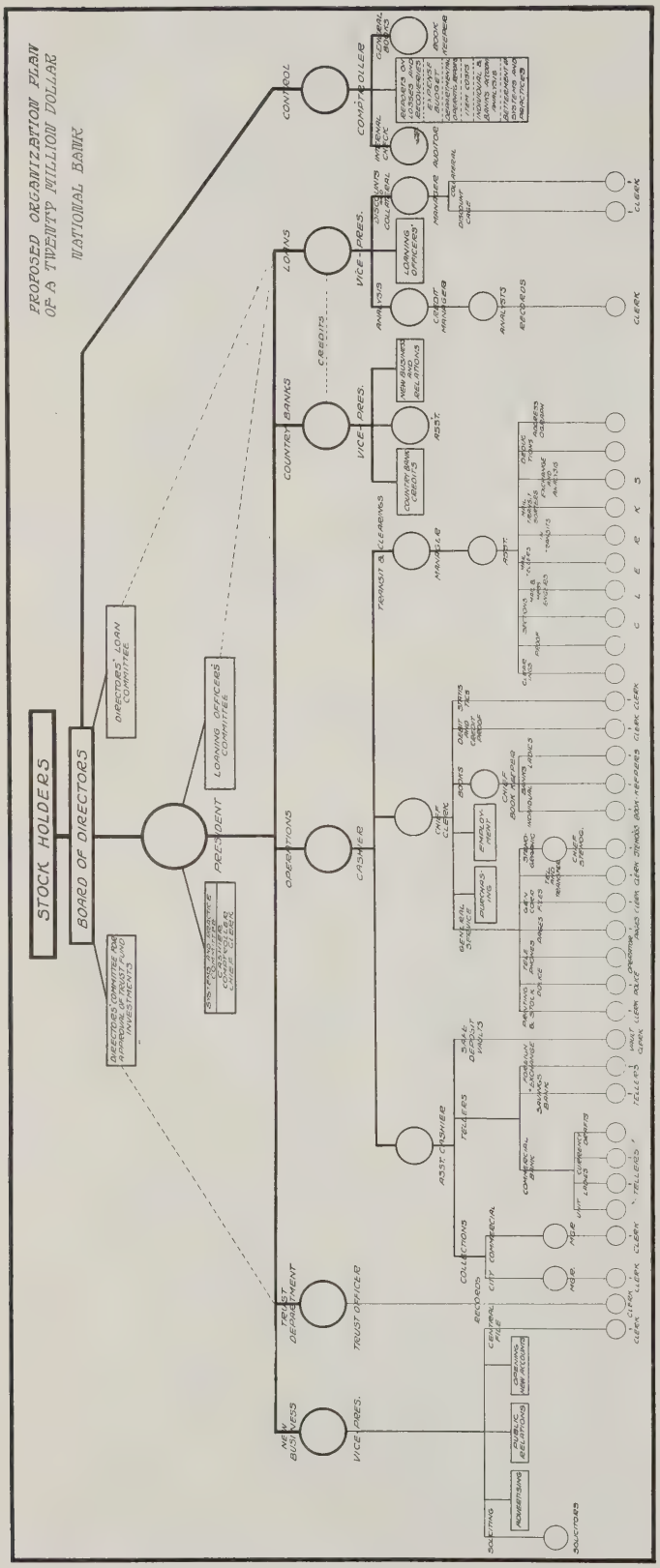


Figure No. 4

tional basis. The serious lack of comprehension of the various functions of the bank is shown in the manner in which the heterogeneous collection of officers and department managers are made directly dependent upon the executive Vice-President; the miscellaneus and unrelated duties which the cashier is called upon to supervise; the dependent condition in which the rudiments of the control function represented by the auditor are placed; naturally the result was inefficiency. The chief executive officer and the cashier held positions which, in this case, acted like the neck of a bottle, restricting the flow of work. Many tasks were inadequately performed, not because the persons were incompetent or unwilling, but because action could not be secured at these key points.

The Problem Solved

The way in which this problem was solved is well shown in Figure No. 3. The major functions of the bank have been clearly recognized. New business is in charge of an assistant cashier; bank operations are controlled by the cashier; loans are in charge of a vice-president, as are investments. A trust officer is head of the trust department, while the control function is clearly recognized and is set up as an independent part of the organization, with its head, the comptroller, responsible directly to the executive committee of the Board of Directors, which is presided over by the president of the bank.

Another application of the functional plan of organization should be noted in this illustration. The activities of bank operation under the cashier are divided into three groups:

(A) Activities in which the bank comes in contact with the public, eg., receiving and paying tellers, etc.
(B) Activities with which the public does not come in direct contact, e.g., bookkeeping, stenographic work, etc.
(C) Savings Department activities, included in this case in one group as the volume of work is small. Careful inspection, however, will reveal that there is a subdivision here corresponding to "A" and "B."

Another picture of a well organized bank (Figure No. 4), is that of a $20,000,000 national bank. In this bank, the functions are: New business, operations, loans, country banks, trust and control. The work of this bank is somewhat different in its nature from that of the bank just discussed, but the general principles on which its organization is based, may be recognized as the same.

Function of an Organization Chart

A bank does not exist for its organization but the organization should exist for the benefit of the bank. It has already been pointed out that an organization is a logical relationship among the various functions and activities of a bank. It is essential that these relationships be clearly understood by all concerned, and that they be rendered permanent. It has been tritely remarked that "a picture is worth ten thousand words." This state-

PRESENT ORGANIZATION - TRANSIT DEPARTMENT

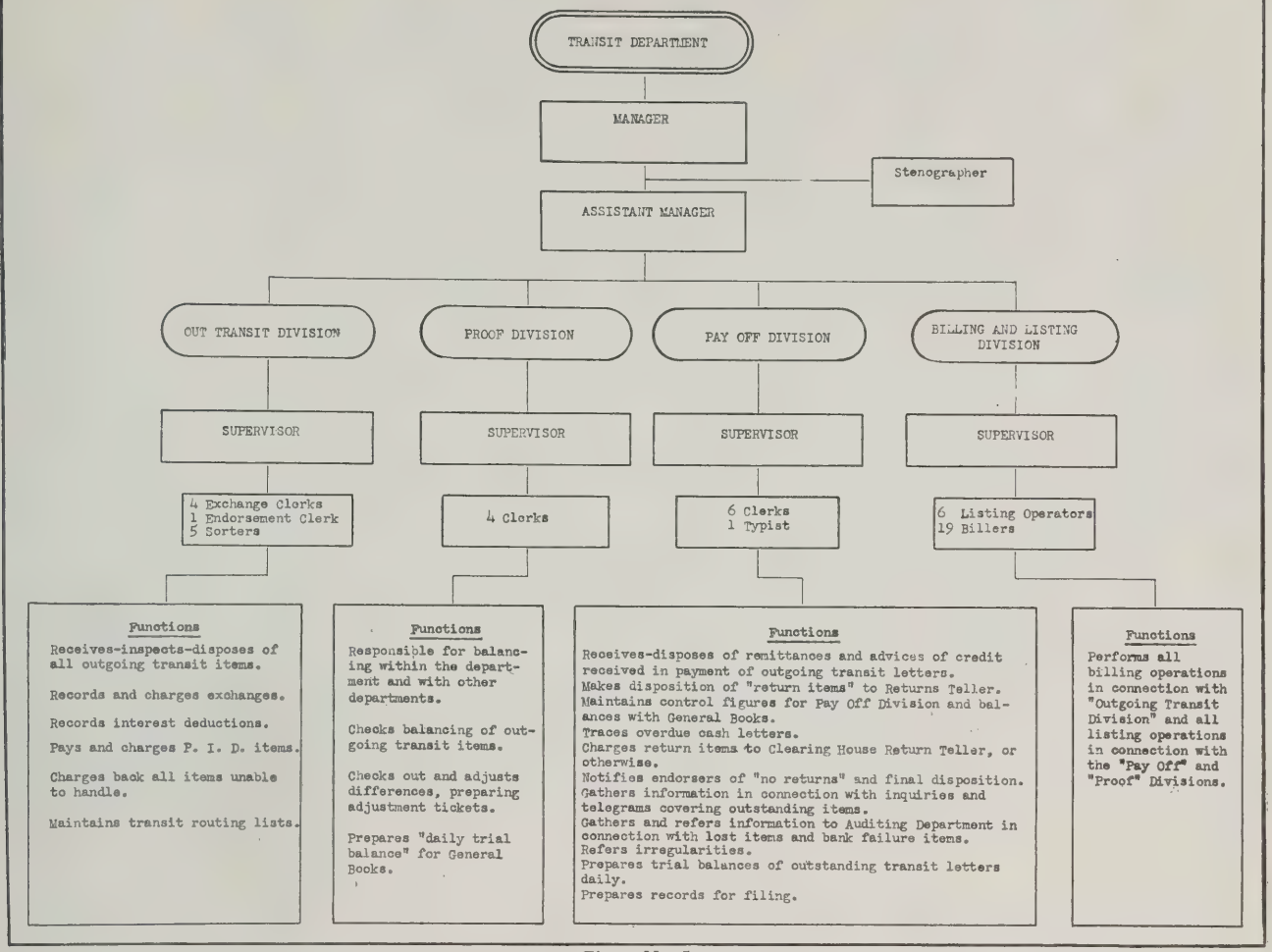


Figure No. 5

CLASSIFICATION OF PERSONNEL IN A THIRTY MILLION DOLLAR STATE BANK

(1) NON-CLERICAL
- (A) OFFICE BOYS
- (B) MESSENGERS
- (C) POLICE
- (D) PORTERS
- (E) TELEPHONE OPERATORS
- (F) ELEVATOR OPERATORS
- (G) MISCELLANEOUS

(2) APPRENTICES

(3) JUNIOR CLERKS

(4) SENIOR CLERKS

(5) TELLERS
- (A) JUNIOR
- (B) SENIOR

(6) MAJOR CLERKS

(7) BOND SALESMEN

(8) SPECIALISTS
- (A) JUNIOR
- (B) SENIOR

(9) SUPERVISORS
- (A) JUNIOR
- (B) SENIOR
- (C) MAJOR
- (D) EXECUTIVE

Figure No. 6

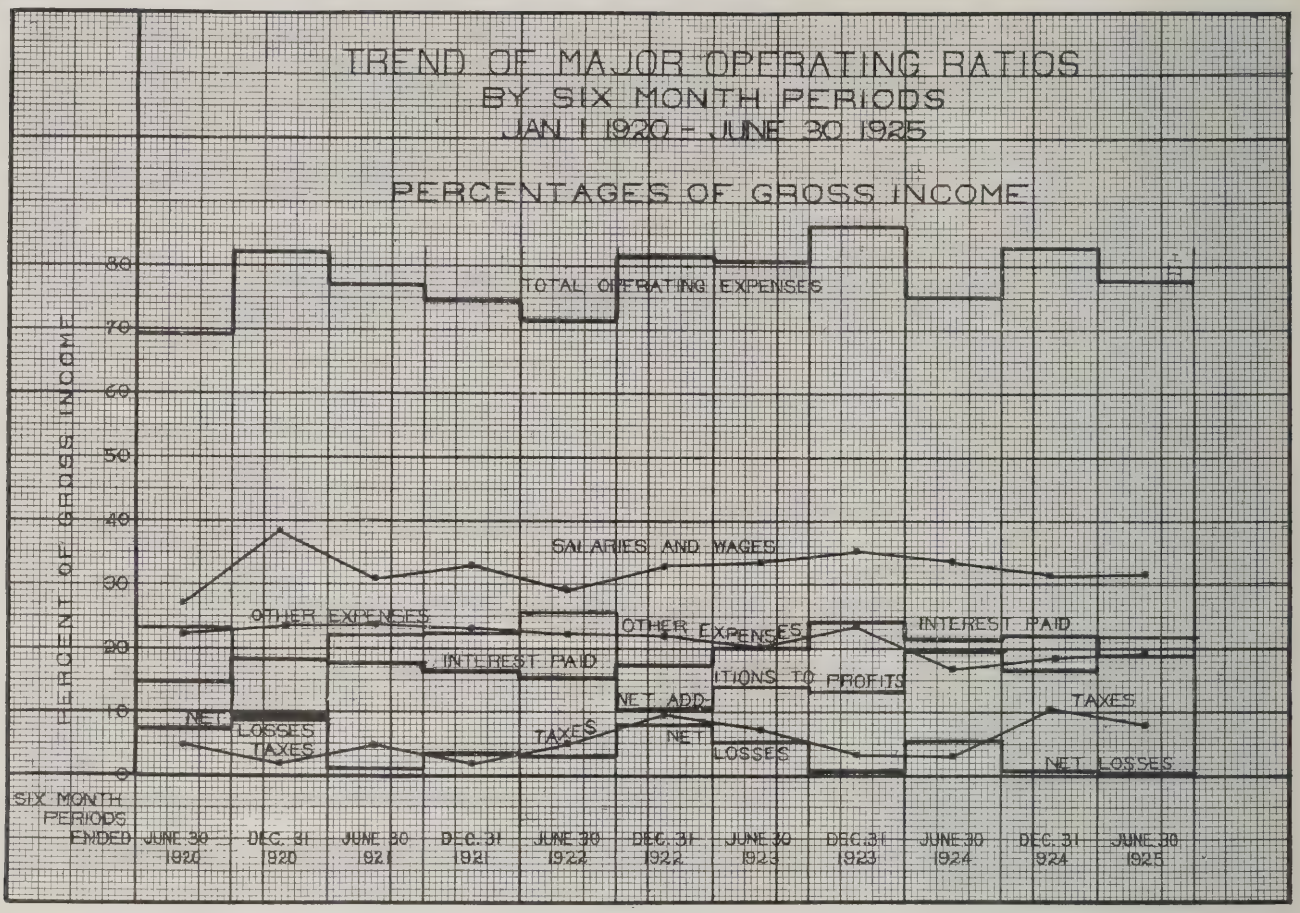


Figure No. 7

ment is never more true than in the case of the relationship among facts. An organization chart is of great value in understanding the functional organization of a bank. Moreover relative permanency is another requisite of a stable organization and an organization chart provides a permanent record. It is, therefore, a convenient and useful means to several ends, but not an end in itself.

So far, the illustrations presented have dealt with the bank as a whole. It is just as desirable to record in chart form the various activities within a department. In Figure No. 5 is shown the transit department of a large metropolitan national bank. A supplementary detailed record of the organization of a bank consists in a clearly defined description of its various activities, and it is desirable to have such definitions prepared for even the smallest subdivisions of a bank's activities, the whole comprising an organization manual.

Analysis of Personnel

Closely related to the problem of organization and a subdivision of it, from some points of view, is the analysis of personnel. Having determined the functions in a bank, it is desirable to select wisely, and to remunerate justly and adequately the persons who are to carry on the various activities. The various tasks to be performed should be analyzed to determine the degree of intelligence, training, experience, the personal qualities and the responsibility and the authority required of the person who is to perform them. From this point of view, in the normal bank, the work may be divided into several classes.

Figure No. 6 shows the classification of personnel in a $30,000,000 state bank. Within each of these groups, the work should be about the same and, giving due consideration to seniority, the salary and wages paid should be the same. It is surprising how little attention is given to this matter in most banks, with the result that we frequently find competent persons side-tracked in unimportant positions, and, in some cases, we find incompetent persons in important positions. Even more startling are the discrepancies in the salaries and wages. A chart, too large to be reproduced here, has also been prepared, showing an analysis of the salaries in the bank just mentioned, and in this picture could be seen some striking illustrations of the variations and discrepancies in salaries, for instance, office boys ranging from $35 to $70 a month, stenographers from $100 to $200 a month and so on. The preparation of a chart of this kind analyzes this

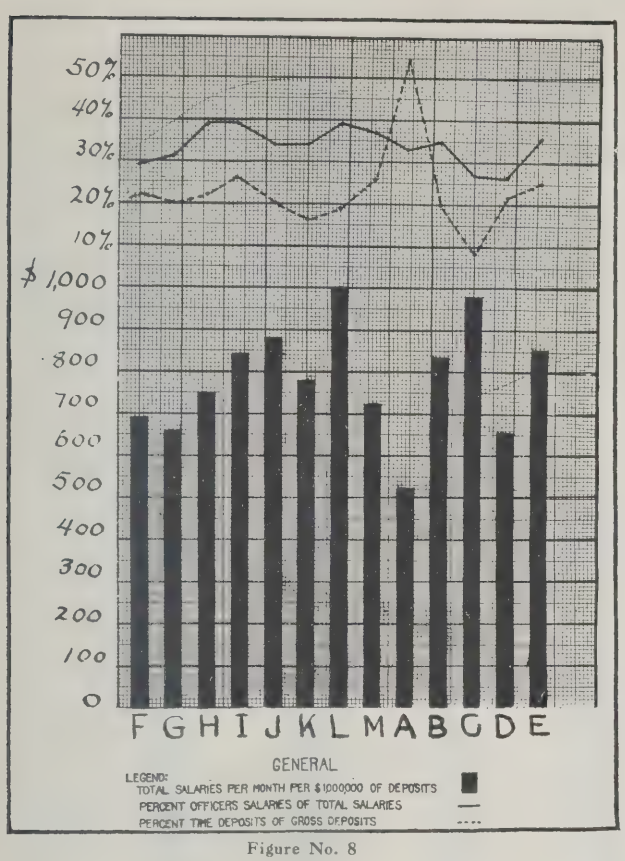


Figure No. 8

problem in a most effective fashion and enables the bank to administer effectively, at least certain phases of the personnel problem.

Ratio of Expenses to Volume of Business

It has already been pointed out that expenses continued to take the same percentage of gross income, in spite of an increasing volume of business. This is contrary to the commonly accepted concept that increased volume means reduced cost per unit of business. In part, this may be due to increased salary and wages, resulting from the increased general cost of living, but in part is unquestionably due to inefficiency in operation.

The general trend of these costs is shown in Figure No. 7. It is evident, therefore, that it is necessary to analyze in detail the expenses of the various operations and to compare the results of these analyses with such expense standards as may be available. Of great assistance in analyzing the position of a bank is the comparison of its expense ratio with those of other banks. However, to be comparable, it is necessary to reduce these expenses to a unit or percentage basis.

Salaries continue to be one of the most important of the cost factors. In Figure No. 8 is shown a comparison of the salaries per month per million dollars of deposits, of thirteen large banks. It is well known that the ratio of salaries to deposits, other things being equal, varies inversely as the percentage of time deposits to total deposits, that is, the larger the percentage of time deposits, the lower the ratio of salaries to deposits. This statement is borne out in Figure No. 8: Bank "A," which has the highest ratio of time deposits has the lowest salary costs per million dollars of deposits; and the contrary is true of Bank C, which has the lowest percentage of time deposits.

A comparison of expenses with those of other banks is a guide in determining which of a bank's expenses are out of line. The analysis of expenses should be pushed much further, particularly in obtaining departmental unit costs.

Exact Apportionment of Expenses

The usual way in which bank expense accounts are set up are not of much assistance; to know the total amount of salaries, stationery, etc., does not assist much in controlling the cost of the various banking operations. A bank should be split into its component departments and divisions, the expenses should be distributed or allocated against these divisions and departments in proportion to the amount representing the benefit received by each. Moreover, expenses should be charged against these departments and divisions only during the period for which they are incurred. To charge expenses as paid and not as accrued, vitiates all expense control and comparison. For example, stationery and supplies should be charged to an inventory account and credited to that account when issued to a department for use. This concept seems very elemental, but it seldom receives any consideration in banks.

Analysis of Income

In the same way bank income should be analyzed according to its source. For example, the Commercial Division should receive full credit for any income which it has produced, and the same holds true for all the other income-producing divisions and departments. "Each tub should stand on its own bottom."

The expense of operation of the purely service departments should be distributed to the income-producing departments in the same ratio as the service which they provide.

After such an analysis has been completed, it is possible to compare the income and cost of operation of the several income-producing departments, and to ascertain which produce revenue and which are being operated at a loss.

Properly Worked-Out Budget

A control of income and expense cannot be established until certain standards are set up. One of the most important of these standards is that represented by budgets of income and expense. A properly worked out budget not only provides a means of measuring actual accomplishment, but it also furnishes one of the most important

CREDIT DEPARTMENT

1925		Number of Employees	Expenses
January	15	18	$5641.77
	31	19	
February	15	20	3331.43
	28	20	
March	14	18	2809.51
	31	18	

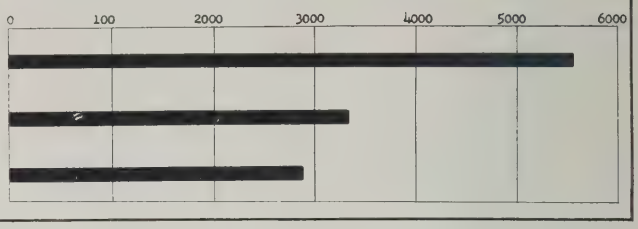
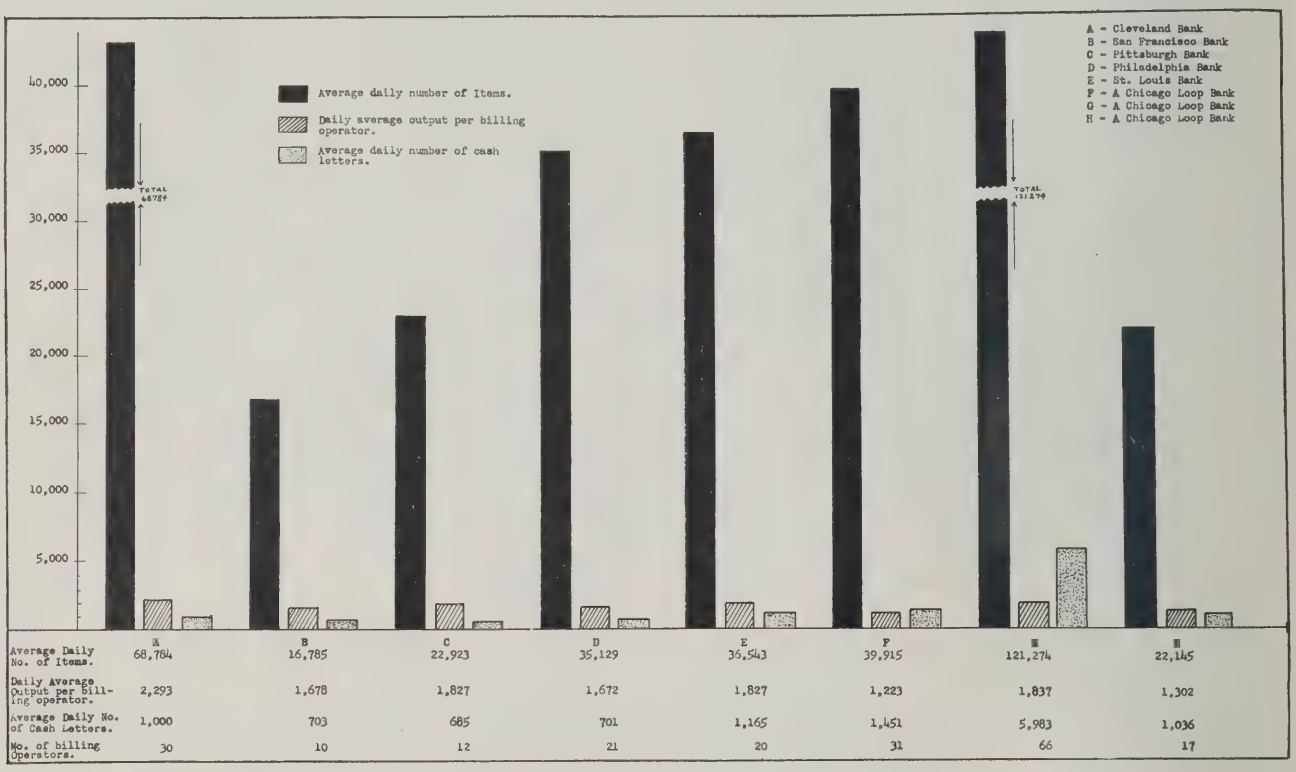


Figure No. 9



	A	B	C	D	E	F	G	H
Average Daily No. of Items.	68,784	16,785	22,923	35,129	36,543	39,915	121,274	22,145
Daily Average Output per billing operator.	2,293	1,678	1,827	1,672	1,827	1,223	1,837	1,302
Average Daily No. of Cash Letters.	1,000	703	685	701	1,165	1,451	5,983	1,036
No. of billing Operators.	30	10	12	21	20	31	66	17

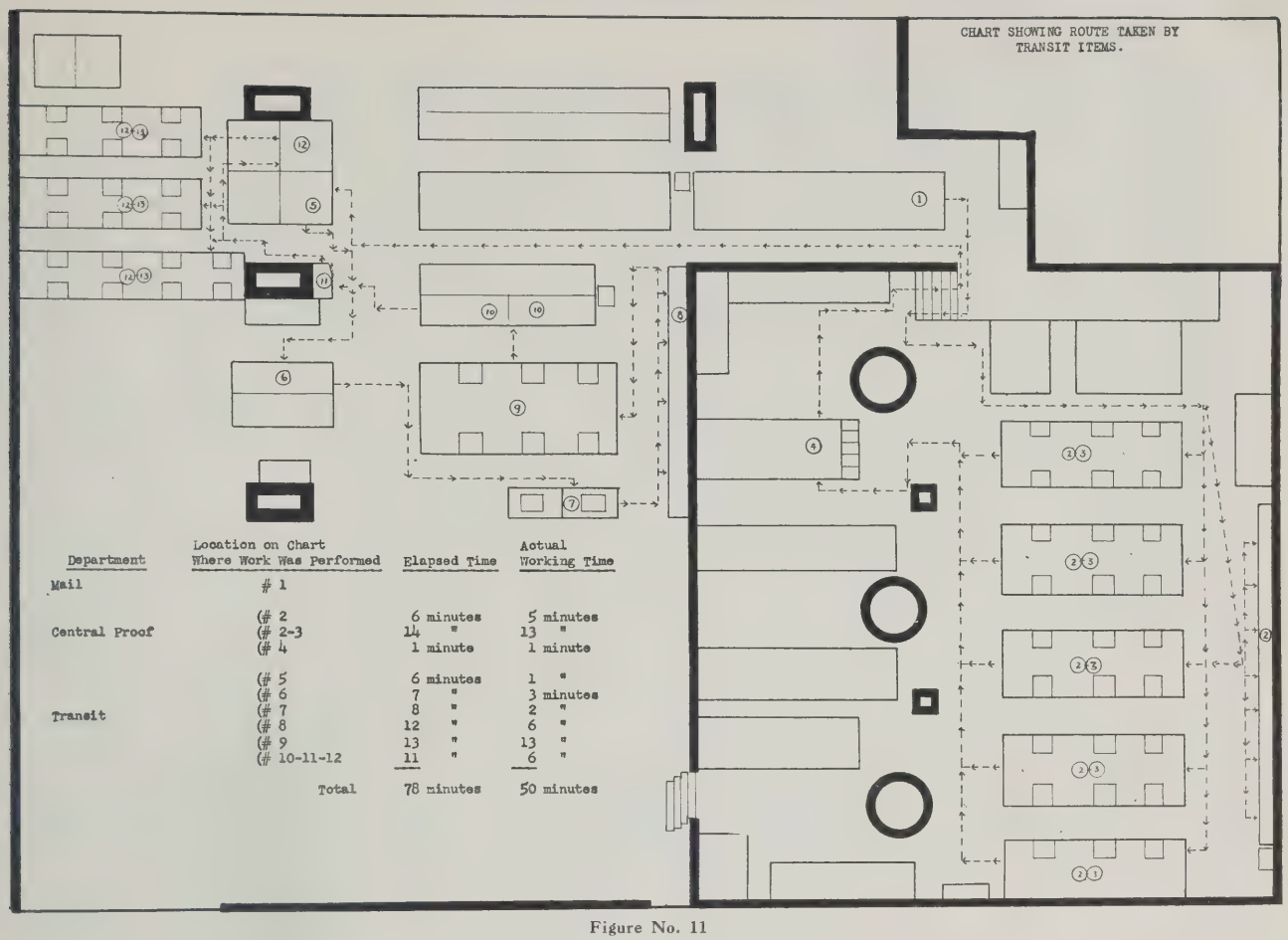
Figure No. 10

aids in realizing the desired results. A budget serves as a chart and a guide; it indicates clearly to officers and employees what is expected, and this in itself is a stimulus to its accomplishment. An example of a departmental expense chart is shown in Figure No. 9. If the results of the analysis of expenses are not satisfactory, it will be necessary to analyze the activities which cause these expenditures in order to determine the reason for the unsatisfactory condition.

Efficiency Depends Upon Analytical Studies

Few banks make analytical studies of the loads which their several departments and divisions are carrying; and yet, not only the expense of operation, but the efficiency of the bank's service, depends on the control of the departmental loads. As in the case of the study of expenses, it is helpful to be able to make comparisons with the experiences of other banks. Figure No. 10 shows such a comparison for the Transit Departments of certain large banks. The total average daily number of items is indicated, and still more instructive, the average output per operator is also shown. It is interesting to note the variation of almost 100 per cent. between the output of the poorest and of the best bank in this respect. It is obvious that such a marked discrepancy cannot be accounted for by local conditions; one of these banks is probably efficiently administered, while the other bank evidently lacks standards and control for this operation.

As in the case of expenses, the analysis should not end here, but the volume of work in the several operations of the bank should be analyzed in detail. In many cases this will require not only a study of the progression of



Department	Location on Chart Where Work Was Performed	Elapsed Time	Actual Working Time
Mail	# 1		
Central Proof	(# 2	6 minutes	5 minutes
	(# 2-3	14 "	13 "
	(# 4	1 minute	1 minute
Transit	(# 5	6 minutes	1 "
	(# 6	7 "	3 minutes
	(# 7	8 "	2 "
	(# 8	12 "	6 "
	(# 9	13 "	13 "
	(# 10-11-12	11 "	6 "
	Total	78 minutes	50 minutes

Figure No. 11

work, but it will also require an analysis of the volume of work by hours as well as by days. Figure No. 11 is a study of the progression of work for a Transit Department. This is not the typical "Flow chart." It is a floor plan, upon which the progression of the work through the department is clearly indicated in chronological order. Figure No. 12 shows an analysis of the volume of work by days for the same department. It indicates clearly not only the great fluctuation in the work of this department, but also the nature of the problem in maintaining a constant task. It furnishes an excellent argument against the fixed position method of accomplishing bank work. Figure No. 13 shows a similar analysis for a Savings Department.

An hourly analysis of the volume of work is well illustrated in Figure No. 14. This shows the volume of work carried by a teller group of two tellers. The peak periods twice a day are clearly evident. It may also be seen that, except for the peak periods, there is not enough work to keep two tellers busy or even approximately busy. It is interesting to note in this case that the morning peak came when one of the tellers was out for lunch, and that the single teller carried the load during this hour without complaining of being overworked.

An analysis of the volume of work of the entire teller group is shown in Figure No. 15. The result simply emphasizes the value of the analysis of the single group. As a consequence of these studies, the number of tellers on duty all of the time was cut from eight to three, with two additional tellers during the afternoon peak period.

This is a striking example of the value of the analysis of bank operations and the results achieved through such an analysis. Until the information contained in these charts was made available, the bank executives did not know the facts, nor were they in a position to make the changes indicated.

Which Accounts Are Profitable?

One of the most important problems with which every bank is confronted is the determination of which accounts are profitable. Much time, effort and money is spent to bring new accounts into a bank, but little attention is given to determining whether an account produces a profit or creates a loss. The factors which determine the value of an account are: its activity, the interest allowed on it and the efficiency of operation of the bank. In analyzing the costs of deposit accounts, it has been found that a small account may be more profitable to the bank than a large one. In fact, it is frequently found that many large

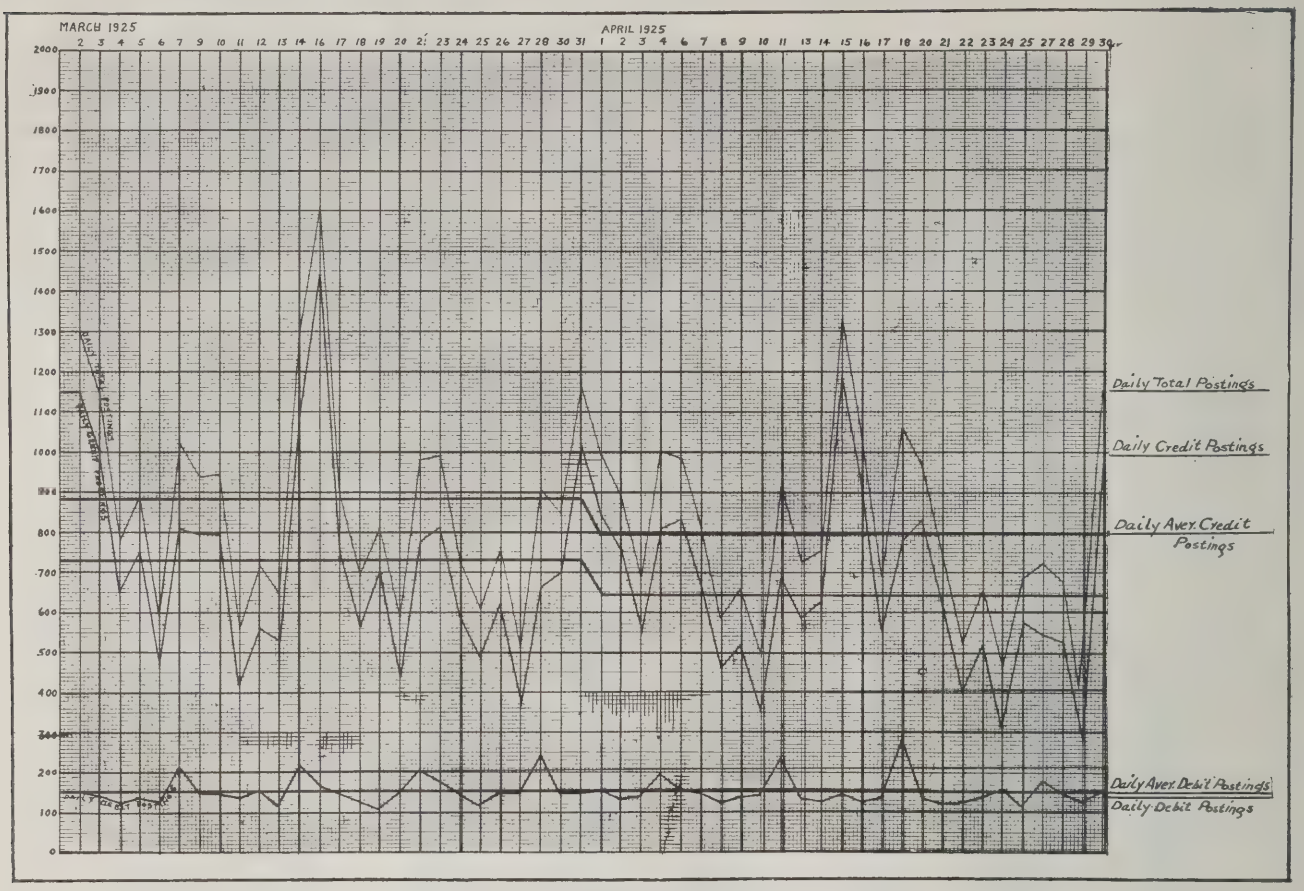


Figure No. 12

Analysis of Volume of Work by Days of a Transit Department

accounts are carried at a loss. From an analysis of the cost of deposit accounts in a certain bank in a middle western city, I will cite a few of the cases found. An account carrying an average daily net balance of about $20,000 was being carried at a loss of almost $21 per $1,000 per month; another account with about $2,000 daily net balance was causing a loss of $9.50 per $1,000. On the other hand, many small accounts in the same bank with balances ranging from $500 to a few thousand dollars showed profits from a few cents to several dollars per $1,000 daily net balance. Similar examples can easily be found in any bank.

Applicable to Trust Companies and Trust Departments

What has been said about banks in general applies equally as well to trust companies and trust departments in banks. To study their problems in such a fashion as to reach sound and profit-making conclusions, it is necessary, as before, to have: First, a point of view; second, an understanding of what is meant by "scientific method," and third, a fearless application of this method to the case in hand. Unfortunately, there is less comparative data available in regard to the operation of the trust department than for the other departments of the bank. It is desirable, however, to survey the same factors in the case of the trust department as have already been discussed in connection with banking operations. Organization is just as fundamental an element in the successful operation of the trust department as elsewhere. In spite of the varied character of the work, this department will lend itself just as easily to functionalization.

The work of the trust department subdivides quite naturally into two main divisions: the Personal or Estates Division and the Corporate Division. The way in which this clear-cut division is made in the case of a medium sized bank is indicated in Figure No. 16. The section which appears as a third division provides services only to the other divisions. It would be divided between and be absorbed by them with the growth in the size of the department. In the case of larger departments there will be sub-sections within these major divisions.

It is also essential to keep separate the income to the department from the various trust activities and to bring against this income the cost of operation. What is meant is that the cost of carrying each account should be ascertained and compared with the income. Only in this

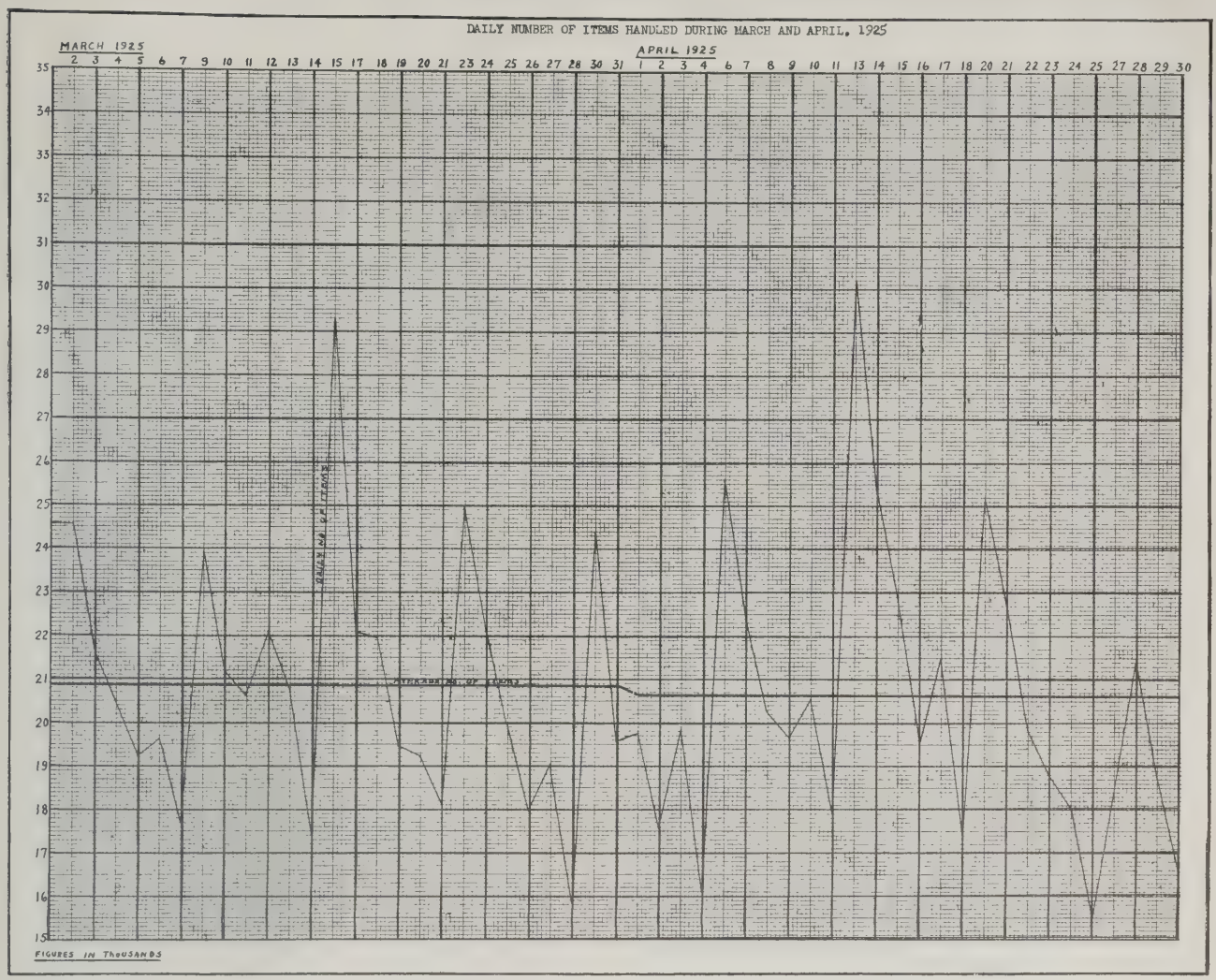


Figure No. 13
Analysis of Volume of Work by Days of a Savings Department

way can the relative worth of the several accounts be determined.

The subject under discussion could easily be extended for a period of several hours without repetition. It should be evident, however, from this brief discussion, that banks need intensive administration based on a scientific analysis of the facts. With the facts in hand, the capable bank executive is in a position to take whatever action may be necessary, and the figures quoted are a clear indication that banks as a whole need action. (Applause.)

CHAIRMAN FOX: The meeting will stand adjourned until two o'clock.

Adjournment.

Second Session
Wednesday Afternoon, Feb. 17

CHAIRMAN FOX: The first speaker this afternoon is Mr. H. F. Wilson, Vice-President of the Bankers Trust Company, New York City. His subject is, "Trust Investments." Mr. Wilson.

Trust Investments

By H. F. WILSON, JR.

Vice-President, Bankers Trust Company, New York

Mr. Chairman, it is always a very great pleasure to address such a group as this, and

"As I sat at the cafe I said to myself,
They may talk as they please about what they call pelf,
They may sneer as they like about eating and drinking,
But help it I cannot, I cannot help thinking,
How pleasant it is to have money—heigh-ho,
How pleasant it is to have money."

These lines by Arthur Hugh Clough, from "The Spectator," it seemed to me, right after luncheon, were somewhat to the point, and I think we are all perfectly willing to admit how pleasant it is to have money—heigh-ho. But I wonder how many of us feel that it is quite so pleasant to have other people's money, and especially the responsibility of investing it for the living and the dead. It is a splendid and profitable service which corporate fiduciaries are rendering, but not one that is particularly pleasant nor particularly easy. By the same token, easy or pleasant things are not usually the greatest or the best.

A Highly Specialized Service

The handling of trust investments has always been and always will be a highly specialized service and an exact-

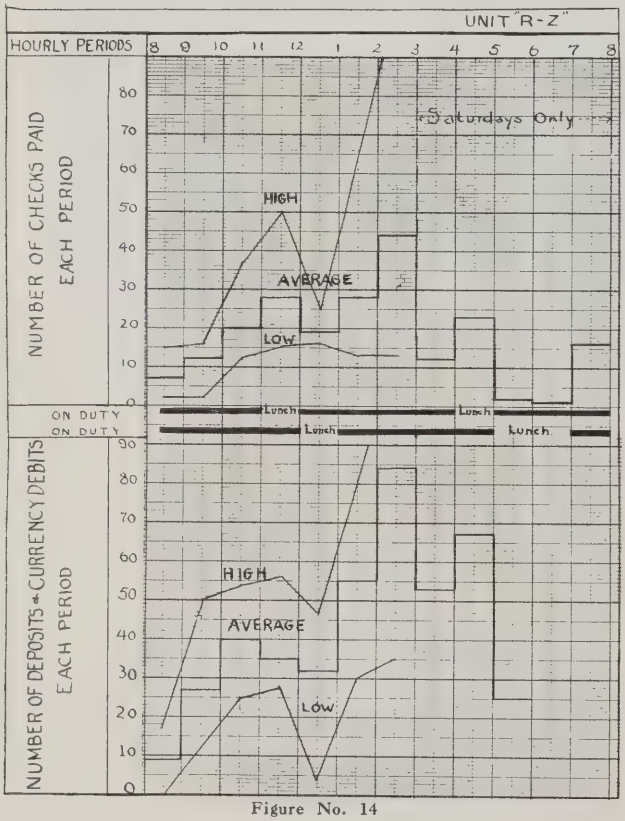


Figure No. 14

ing personal responsibility because we are dealing with other people's money and usually with the trust funds of those who can ill afford to lose anything in the way of either principal or income.

If a loss is incurred by a bank or trust company in the investment of its commercial funds, it is not usually felt at all by depositors and only indirectly by stockholders. Any loss of trust funds is usually felt immediately and directly by the beneficiaries because each trust is a

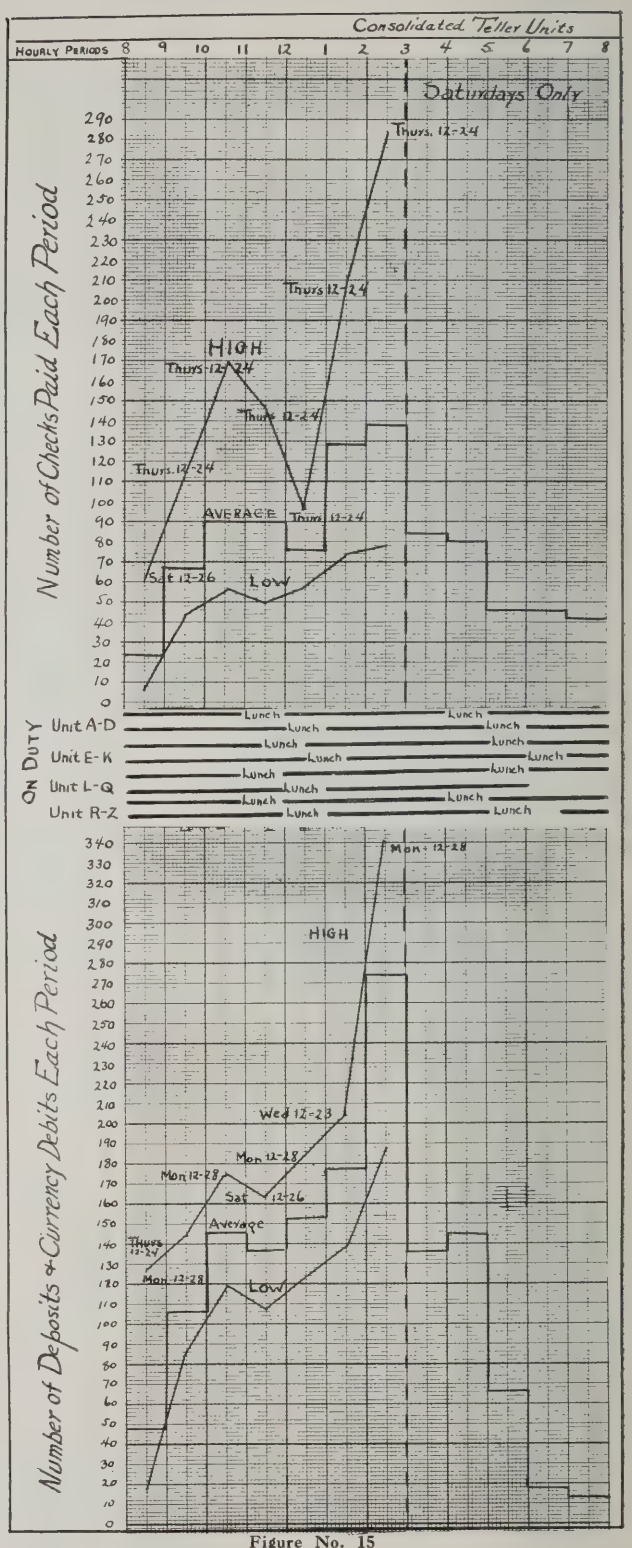


Figure No. 15

separate entity. There is, consequently, necessity for special care in handling the investments of each particular trust account on its own merits. Sometimes in administering an estate it is necessary for the executor to sell

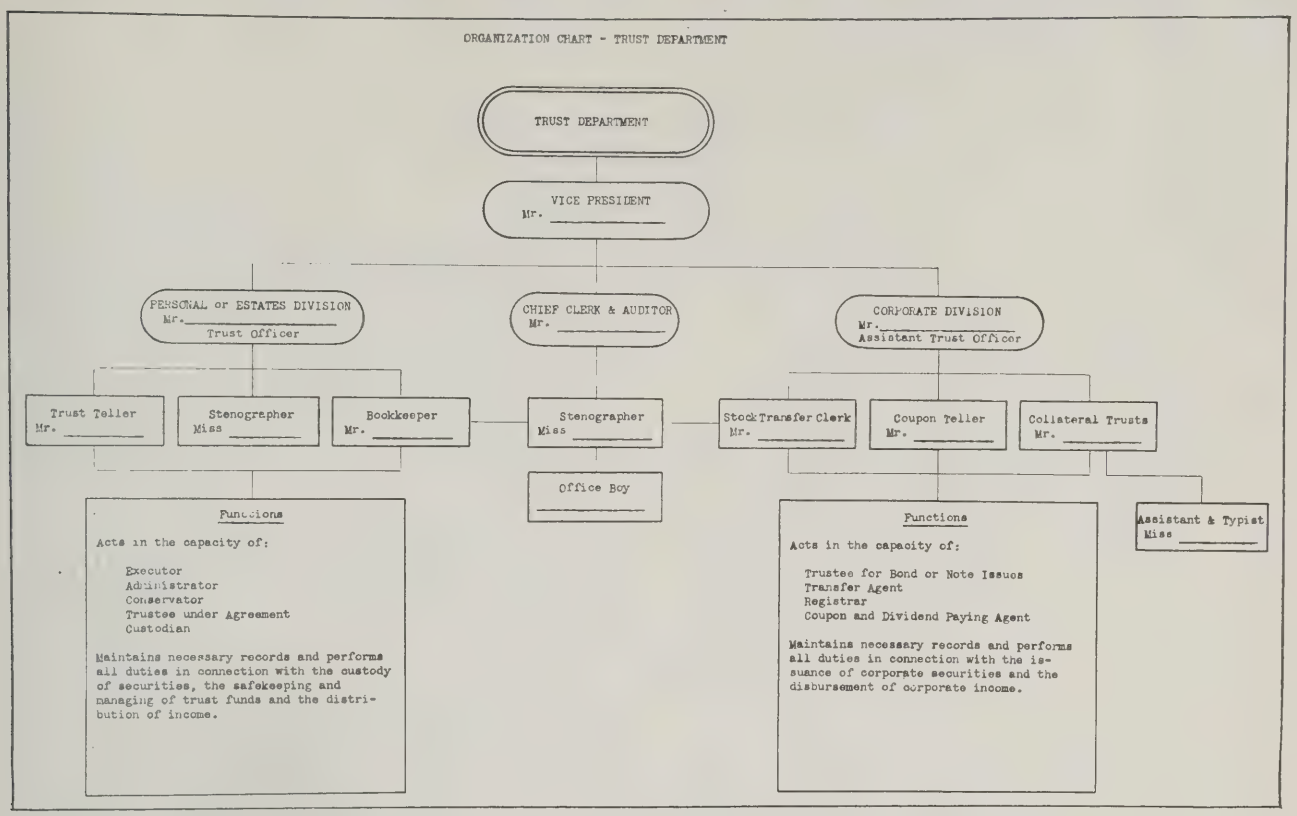


Figure No. 16

at a loss speculative securities which it found in the estate but which it did not purchase and of course executors and trustees do not guarantee that there will be no loss, but they cannot be too careful in studying every security which comes into their possession, and most certainly should exercise every precaution in making any investments as trustee. Sometimes we are "damned if we do and we are damned if we don't," but it is the chief duty of a trustee to preserve, not necessarily to increase, the trust fund, as many seem to feel. But this does not mean that all except securities legal for trustees should be sold regardless. A trustee, as you know, is often justified in retaining securities already in a trust even if they are not of a quality which would be purchased with new money.

The fact that services of this nature are being rendered by trust companies and banks on a constantly increasing scale undoubtedly has a reason behind the fact, apart from the well-known advantages of permanence, responsibility, experience and availability which a trust company possesses, but which an individual usually does not.

It is the special business of a trust company to administer trust funds. It is usually *not* the business of an individual, but merely a side issue or an effort to be of service to a friend, living or dead. Sometimes with the best of intentions an individual, through inexperience in handling investments, finds that he has done his friend more harm than good, simply because the handling of trust investments was an unknown science to the individual trustee. He may be a successful manufacturer or executive, but the handling of trust investments is not his business and it is so highly specialized that it requires specialists to handle it properly.

However, it is not my intention to argue here the advantages of corporate administration over individual, because that is manifestly conceded by such a group as this, but I do wish to stress the importance, which of course you all realize, of a most careful and painstaking handling of trusts funds even though we may be inadequately compensated for our services.

I think that very few of our customers trade quite as closely as the Scotchman who, during the eclipse last year, went into a railroad station, waited until the moment of totality, and then asked if he could send a telegram "night rate." (Laughter.)

Each Trust Has Own Requirements

As you know, the investment of trust funds must always be considered in the light of the requirements of each specific trust. Sometimes a tax problem is present; sometimes it is absent; the beneficiaries may be either minors or adults; either residents of the United States

or non-resident aliens; investments may be restricted to those legal for trustees or as is now more frequently done, the trustee may not be restricted to the so-called "legal list." Amortization may or may not be required and the proper proportion of premium and discount bonds should receive consideration, as well as the duration of the life of the trust.

All of us, of course, do not live to be old men, especially in the trust business, but consider this with me for just a moment:

"The horse and cow live thirty years,
They never touch light wine or beers;
Sheep and goats are dead at twenty,
They drink no liquor—water plenty;
At ten, the cat has lost nine lives,
On milk and water, no beast thrives;
At five the birds are mostly dead,
They look not on the wine that's red;
The bugs few days remain on earth,
They do not know the cocktail's worth;
But awful, wicked, rum soaked men,
Live on for three score years and ten."
(Laughter and applause.)

All these factors and many others have a bearing in the making of trust investments, entirely apart from the safety of the investments themselves, their maturity, diversification, taxability, marketability, etc.

Each bank and trust company, of course, has its own method of reviewing trust investments and I have studied a good many which appeal to me as admirable. And all of us are constantly looking for improvements. It has occurred to me, however, that you may be interested to have a brief outline of the organization which we have in the Bankers Trust Company to handle our trust investments, which we consider one of our greatest responsibilities.

It is always important to have proper records for keeping track of all the details, but those I do not propose to discuss. It is also necessary to have an effective organization properly and promptly to handle any large volume of trust investments.

Statistical Review of Securities

Our Statistical Department is constantly studying and reviewing our trust securities in the following manner:

1. *Each account as a whole*—All trusts (with the exception of those donor controlled accounts which by the terms of the agreement creating them, it is understood, are not to receive review service) are reviewed periodically, either on the initiative of a trust officer or a person beneficially interested in the account, or at the request of the statistical or trust departments themselves. We no sooner finish reviewing than we start all over again.

2. *By Securities*—Our trust securities are subdivided into groups, such as rails, public utilities, industrials, foreign governments, municipals, etc. These groups are reviewed once a month by the corresponding heads of the Statistical Department; that is to say, the head of the Railroad Division reviews the rails, the head of the Public Utility Division reviews public utility securities, etc., watching the situation in each company and each industry and from time to time considering the advisability of taking action on the securities held in trust. At frequent intervals such situations are reconsidered in the light of any new developments which come to our attention. Most banks and trust companies have ways of obtaining information which is not readily available to individuals, although neither can be expected to predict market fluctuations with any certainty. Trust investments should be considered on intrinsic worth, and market prices are only one of many factors, although an important one.

3. Irrespective of the manner of review, our Statistical Department is constantly bringing to the attention of the trust officers such problems as it feels should be submitted to the Trust Investment Committee, either with or without definite recommendations.

We thus have a constant and systematic review of trust accounts and securities en bloc.

General Committees

After analysis by the statistical department the next step is the consideration of a general sub-committee, under the leadership of our investment trust officer. This committee meets each week two or three days in advance of the regular meeting of the main committee, studies safety first, then tax problems, proper diversification, best maturities for the terms of the trust, restrictions as to investments—legals, non-legals, etc.—and makes its definite recommendations to a main or central committee which likewise meets every week.

The general sub-committee also makes its recommendations to the central committee covering suggested changes, sales and review of new estates or trusts, and obtains its blessing before action is taken.

The general sub-committee of seven embraces in its membership not only specialists for each group of securities, but also official representatives, including our other New York offices. It makes its definite recommendations to the central committee, which either approves or alters the recommendations of the general sub-committee. In this way, the main or central committee is relieved of many details, yet it knows that all factors have been carefully considered before it is called upon to "read, mark, learn and inwardly digest" the specific investments and give its approval or other suggestions. The plan also has the advantage of training future members for the

central committee without experimenting on the trust accounts.

Quick action can be obtained if necessary by personal canvass of the Committee members.*

I find that the trust investment committees which correspond to our central committee, are constituted in various ways throughout the country, one which I recently saw, being composed of six senior officers and thirteen directors. We, ourselves, have found that too large a central committee is unwieldly and a changing committee is not satisfactory. We have four senior officers and one director as a permanent committee, and a permanent secretary who keeps very complete minutes. Each other director of the company takes his turn for a month as a member of the central committee. After running the gauntlet of these committees, the trust investments are then submitted for final approval by our executive committee, and I must add, very occasionally, disapproval, as our trust investment committee is naturally careful not to recommend anything which it feels will not be approved by such a distinguished executive committee as ours—fourteen members—who meet twice a week.

The organization of these several committees may seem somewhat cumbersome, as outlined, but we have found in practice that the machinery works very well and we believe it is the minimum which we can safely use in making and reviewing trust investments. It is dangerous to have such investments made by any one man, without proper safeguards and it is difficult to have too much machinery and at the same time function promptly.

In addition to all the foregoing, we have a special committee for each group of securities—stocks or bonds—such as rails, public utilities, industrials, Government bonds, Federal Land Bank bonds and a sub-committee also for stocks of banks, insurance and surety companies. On each of these committees is the head of the corresponding division of the statistical department and each sub-committee has one of our senior officers as chairman.

The function of these sub-committees is to review their particular group of securities at least twice a year and make written reports to the central committee, one each month. In this additional way during the year all the securities held in our trust accounts are reviewed and especially those which we ourselves control as trustee.

There is also a real estate committee which passes upon all bond and mortgage investments and their recommendations in turn are submitted for approval by the central committee. All matters of policy relating to trust investments are also passed upon by the central committee and finally all new investments are approved, and very occasionally disapproved, as I have already mentioned, by our executive committee, without whose approval no trust investments are made.

*We also have a list of bonds approved from time to time by our Trust Investment Committee and by our Executive Committee, from which and only from which investments may be made without first obtaining the approval of these commmittees.

We publish semi-weekly for the use of the entire office a financial bulletin which contains the details of bonds called for payment, declaration of dividends, exchange of temporary for permanent securities, formation of protective committees, operation of sinking funds, etc. This bulletin is carefully checked twice a week as to all trust investments and anything which requires investigation is at once referred to our statistical department for analysis and recommendation to our general sub-committee.

Trustee Should Not Deal With Itself

I would also like to read the following from our Office Rules and Regulations:

> "Under no circumstances shall the policy which is as old as the bank itself be deviated from: namely, securities in which we are interested shall not be sold to our trust funds, but must be purchased in the open market and under no circumstances shall any commission be charged."

In other words, we believe in the principle that a trustee shall not deal with itself, himself or herself and should not make a personal profit in the purchase or sale of trust investments at the expense of the trust estate.

Enlargement of "Legal List"

In New York State last year the opinion seemed to be unanimous that the list of investments legal for savings banks and trustees should be enlarged, but there was some slight difference of opinion as to the degree of enlargement. This year the feeling that there should be an enlargement seems to be stronger than ever, and practically all concerned have agreed upon the formula as well. It is becoming constantly more obvious that both savings banks and trustees here are paying an artificially high price for present legals because of larger demand and smaller supply, and that many bonds of public utility companies and telephone companies are just as safe as trust investments. In fact, some of them are safer than some bonds which are now legal.

I understand that practically all the savings banks in New York favor both the bills which have been introduced (which also have the approval of our Trust Company Associations) and I hope at this session of the legislature that these bills, substantially in their present form, will be passed.

Corporate fiduciaries are interested, primarily, of course, to obtain a better income for the beneficiaries of their trusts, and an increase compatible with safety, it seems to me, is a very helpful and constructive move for us to sponsor.

Principles of Safety

While time does not permit a discussion of other principles of safety to be applied in making trust investments, the proposed bills to legalize certain bonds of public utility companies in New York State contain cer-

tain provisions which may well receive consideration in making trust investments whether or not we are restricted to those legal for trustees.

These provisions require that a company, to qualify, must be of considerable size; its franchises must be in order; its capitalization must be conservative; its earning power must have been good over a period of years—good enough to have provided dividends on stock as well as to have paid interest on its bonds; and it must have had no default in its record for eight years. Conservative bond and mortgage loans have also been a satisfactory, though short-term medium for trust investments.

No problem which banks and trust companies have is greater than the making and supervising of trust investments. Carelessly administered, it is likely to prove a serious liability—carefully administered it can be made a great asset, not only in resultant fees, but also in the way of good will and the new business which will flow to the companies which are faithful to their trust.

As I have said before, there are, and will be, banks and trust companies whose reputation for service is rated AA1, and of course we all recognize that the competition should be, not one of rates, which should be the same for all in the same locality, but a competition which strives to uplift the general level of fiduciary service and so benefit both the competitors and the public, as well. We are unwilling to sell our birthright for a mess of pottage.

Now, Mr. Mershon told me that he wanted me to sing a song, but I am not going to sing a song, because, fortunately for you, I have a cold, and I don't believe I would, anyway, but I just ask you to imagine these few lines which I give you in conclusion, to the tune of "Smiles":

> "There are trusts that make us happy,
> There are trusts that make us glad,
> There are trusts that make a fellow wonder,
> What ideas the lawyers must have had.
> There are trusts so full of good investments
> And diversity that's always good to see,
> But the trusts with increased compensation,
> Are the trusts that appeal to me."
>
> (Applause.)

CHAIRMAN FOX: I feel that I owe an apology to Mr. Wilson, in not stating, when I introduced him, how varied his talents are. I had no idea that he would adopt the poetic style that he did during his address, but I am sure you all enjoyed it.

MR. MERSHON: Mr. Chairman, Mr. Wilson's talk is so full of points the men in this meeting want to know about, that I recommend we have an open forum at this time and have him quizzed. It will not harm him; he has the avoirdupois, the knowledge and everything else that is required to answer questions. There are two points: the purchasing of trust investments from one's own institution and the standardization of fees, which Mr. Wilson emphasized in his talk and about which many of you are writing into the New York office frequently.

CHAIRMAN FOX: If there is no objection, we will take ten minutes for questioning Mr. Wilson.

Division of Fee With Co-Trustee

MR. HANMER (Seaboard National Bank, New York): Mr. Chairman, may I ask Mr. Wilson with reference to the division of a fee with a trustee or corporate executor under the will, whether your company divides the fee or whether it is its policy to retain the whole fee, unless the will specifically provides for it?

MR. WILSON: In New York, it depends somewhat on the size of the estate. If the estate is over $100,000, each one of the trustees, up to three, is entitled to full commission; under $100,000 there would have to be a division of the fee. Our practice is to make an arrangement with the co-executor or the co-trustee, a special arrangement, pointing out that the majority of the work and the responsibility is ours, that their job is one simply of conferring as to investments, we have the custody of the securities and we initiate a lot of the suggestions, and while, of course, it is always a matter of special arrangement, we usually try to get three-quarters and let the co-trustee have one-quarter. Sometimes we have to make a fifty-fifty break, but that is not a very good arrangement.

MR. KNAPP (Coal and Iron Bank, New York): There is a Court of Appeals decision in this state that holds, I understand, that where there is a co-trustee, and the bank or trust company does, as in the nature of things it will do, the greater proportion of the work, the bank trustee is entitled to and shall receive the major portion of the fee, and if it came up in the courts, the decision would be along those lines.

MR. WILSON: That is undoubtedly correct, Mr. Knapp, and is the reason behind the fact of the negotiations on the basis mentioned.

Selling Own Securities to Trust Estates

MR. VIERLING: Mr. Wilson, may I ask, is it the uniform custom in New York City for trust companies and fiduciary banks not to sell their own securities to their own estates, or are there any exceptions to that, within your knowledge?

MR. WILSON: I think there are exceptions to it, Mr. Vierling. Of course, each company has to adopt its own policy. I know of one company which, when it writes its trust agreement, writes in the agreement that it is understood all securities bought or sold may be handled through the security company which is associated with that bank. That is put in the trust agreement. It is a question of principle with us, and it seems to me it is a principle that might very well be applied by all institutions; although there are some exceptions to it in New York, I believe there are more companies that have our policy than otherwise.

MR. VIERLING: That idea prevails out West—in St.

Louis; for instance, our company never buys securities from itself nor from any syndicate or associated corporation; it is very strict on that point.

MR. WILSON: I think that is the right principle, Mr. Vierling.

Cause of Delay?

MR. LITTLETON (Fidelity Trust Company, Philadelphia): The question I would like to ask is this: I have been very much interested in hearing of your organization for the careful investment of trust funds, and I presume that applies to all changes you make in them. Now, from time to time, in states where you have no power of general investment, where you are holding non-liquid securities, you may see chances of advantageously disposing of those stocks or bonds, which otherwise you would not hold. Now, do you never find that the necessity of submitting this matter to two such committees, causes delay in the possible disposition of those securities?

MR. WILSON: Mr. Littleton, as I mentioned, it does not take more than a week at the outside for those matters to receive consideration, and if, as I mentioned in my talk, there is any necessity for any special haste, there are only seven members of the central committee, they are all available and we can get a quick decision by personal conference. We have had cases where it was necessaray to take quick action, but it has always been possible to handle it in that way.

MR. LITTLETON: I asked that question for this reason: We had an opportunity to sell one of the securities we had been holding in our trust department, we were all in agreement, we had no committee and we sold this security and got the top of the market. The next day, there was a slump. Had we had to consult the committee, we would have lost the market—it might have been better if we had, because the stock went up again.

(Laughter.)

MR. WILSON: I think, while there are bound to be brief delays of that sort, Mr. Littleton, the chief cause of delay is not so much in getting a decision as to sale of securities, but of obtaining waivers, etc., and the Committee of the Corporate Fiduciaries Association of New York has standardized that to some extent by writing to all the tax authorities throughout the United States and getting a standard form. I think the more dangerous form of delay is getting the security in negotiable shape so that it can be sold rather than getting a decision to sell it.

MR. MERSHON: One very interesting fact brought out in Mr. Wilson's address was the agreement between the corporate fiduciaries in New York, in regard to fees. They are never deviated from after the agreement has been reached.

CHAIRMAN FOX: I believe the time allotted for questions has expired, and we will now proceed with the program. Our next paper is, "What Constitutes a Will Contest?" by Mr. Orrin R. Judd, Vice-President of the Irving Bank-Columbia Trust Company, New York.

What Constitutes a Will Contest?

By ORRIN R. JUDD, LL.B.

Vice-President, Irving Bank-Columbia Trust Company, New York

Mr. Chairman, Ladies and Gentlemen: The subject in the discussion of which I have been asked to lead this afternoon is, "What Constitutes a Will Contest?" This question can be answered in a single sentence. The contest of a will is begun by the filing of objections to the admission to probate of a written instrument propounded as the last will and testament of a deceased testator. In New York probate practice, the will is presented by the executor to the surrogate's court, with a petition praying that it be admitted to probate and that letters testamentary thereon be issued to the executors named in the will. The testimony of the subscribing witnesses to the will is submitted in proof of its due execution and, of course, we understand that the execution of a will requires certain formalities in the way of acknowledging the signature or witnessing the signature by the witnesses to whom the testator must declare the instrument to be his last will and testament.

Grounds for Contesting a Will

The usual grounds for contesting a will are:

First: That the alleged will was not executed by the testator in the manner required by law.

Second: That the testator at the time of asking the will was not of sound mind and memory and capable of making a will.

Third: That the execution of the will was obtained by undue influence.

Fourth: That the execution of the will was obtained by fraud and misrepresentation.

Other grounds that are sometimes alleged are, that the alleged will is a forgery or that it has been revoked.

The only persons who have a right to contest a will or a codicil to a will are those who would receive the property of the decedent if the will were set aside. These are his next of kin and heirs-at-law, who would

take in case of intestacy, beneficiaries under a prior will or beneficiaries under the disputed will whose legacies have been revoked or reduced by a codicil thereto. (The latter would, of course, object only to the codicil which changed their benefits.)

Any one of these persons may file with the court an answer and objections to the petition for probate on any or all of the grounds above mentioned, and demand a trial of the issues thus raised. The filing of such an answer and objections constitute a contest of the will, even though they may be subsequently withdrawn.

No Contest Condition

Will contests are notoriously expensive and often engender bitter controversies and family antagonisms. With a desire to prevent waste of their estates through litigation and to preserve peace and harmony among their legatees, testators sometimes seek to prevent contests by writing into their wills a condition to the effect that any legatee who disputes or attempts to set aside the will shall forfeit his right to receive any benefits under it. This condition is referred to in legal language as an in terrovem clause; that is a clause by way of warning or intimidation. I suppose the real question before us is, how far a condition of this kind in a will should be given full force and effect, and this affords material for an interesting study.

A good example of a no contest condition taken from the will of a well known man is the following:

> "In case any person to whom any legacy is given or to whom any beneficial use or interest in or income of any trust fund is given in my said will or codicil shall oppose the probate of the same before the surrogate or any court or shall take any legal proceedings of any kind in any court to set aside the said will or codicils, or either of them or any part of them, or shall co-operate and aid in any such proceedings, or shall refuse to accept the provisions made for his or her benefit therein, then and in that case I revoke all or any legacies in favor of any such person."

But not every provision that a testator includes in his will will be enforced. Contracts or other instruments which violate the principles of justice, morality and convenience, the courts will refuse to enforce as being contrary to public policy, or the policy of the law, even though there may be no specific provision of law applicable to the case.

A State of Confusion

Whether or not such a provision in intimidation of contest shall be strictly construed in a particular case is a question that has frequently been brought before the courts by executors and unsuccessful contestants. Legal text-book writers generally agree that the law on this point is in a state of confusion, both in the United States and in England. On the one side it is argued that to hold that a legatee who objects to the probate of a will on reasonable and probable grounds must forfeit his legacy if he fails to produce sufficient evidences to prove his case beyond a reasonable doubt, is contrary to good public policy, in that it has a tendency to encourage fraud and coercion. On the other hand, it is quite as important that the contest of wills without probable and just cause shall not be sanctioned by the courts, for litigation would thus be promoted, equally against sound public policy.

In England, it was formerly held that a no-contest provision was always operative, but more recent decisions have modified this rule. It has been held good as to real property, but void as to personal property, unless the testator also made a gift over, that is, an alternative bequest of the property which the contestant had forfeited. A general residuary clause has been held insufficient to constitute a gift over.

The American rule seems to be that where a contest is made on fair and reasonable grounds, the forfeiture of benefits will not be enforced in case of failure of the contestant to prove his case. A comparatively recent decision by the highest court in Connecticut says:

> "No arbitrary rule meets well the cases likely to arise under this head, but circumstances ought to influence construction."

Definition of a Contest

On the question of what constitutes a contest, I think there can be no doubt that the filing of objections is a violation of the no-contest condition. Even though they may be subsequently withdrawn and not prosecuted, they may accomplish the purpose of forcing a settlement with the contestant and, to this extent, defeating the purpose and will of the testator; but the mere asking for a construction of the will would not be a contest. It sometimes happens that the real meaning of words used by the testator is so obscure or uncertain that the executor or some person interested in the will deems it necessary to ask the court to construe the doubtful provision. Such a request for construction unaccompanied by objections to probate would not work a forfeiture under the no-contest clause. The rights of an infant beneficiary generally would not be affected by the filing of objections by a special guardian of the infant, in the discharge of his duty.

This paper may well conclude with an apt quotation from the Connecticut decision in a will contest above referred to, which says:

> "If one has used the machinery of the law by competent methods and designed to overthrow the expressed wishes of the testator, this amounts to a contest, and the fact that the contest is waived before the actual determination is not conclusive, as such action may and is intended to produce a compromise."

This seems to be a complete answer to the question before us.

CHAIRMAN FOX: We will take five minutes for discussion of the paper which has just been read. Are there any questions?

MR. BABCOCK (Equitable Trust Co., New York): Mr. Chairman, I would like to ask Mr. Judd whether, in his opinion, a contest brought by the guardian of a minor would deprive the minor from benefit of the will if on becoming of age he disapproved it?

MR. JUDD: It has been held that the act of the special guardian of the minor does not forfeit the rights of the minor. The guardian may act according to his conscience in the carrying out of his duty, to protest against the will, but that does not, if he fails, work a forfeiture in the case of the minor.

JUDGE STITES (Louisville Trust Company, Louisville, Ky.): In Kentucky there was a reverse decision: the Court of Appeals held that a contest by a guardian who is legally authorized to contest would forfeit the infant's rights under the will, and that Court, in the last two years, in a very large case, denied the guardian's right to contest. It said the infant could act for herself when she became of age.

MR. JUDD: That emphasizes the point that was made by the text book writers, that the law is in a state of confusion, it is unsettled. Some states hold entirely differently from other states. I did not know of this decision in Kentucky, but it is a very interesting point.

JUDGE STITES: In that case an effort was made to break that by bringing the next friend. The Court of Appeals decided the same way. The court held if he had the right to contest it, the same would apply, it would not make the infant forfeit the estate until she became of age and had a right to contest it.

MR. JUDD: It does seem to me that where the contestant has good reasonable ground to believe that the will is invalid and is, for some reason, unable to prove his case, that ought not to work a forfeiture, and that doctrine has been held both in England and in the United States—in some of the Eastern States, particularly New York and in Connecticut.

CHAIRMAN FOX: If there are no other questions we will go to the next number on the program. There will be a very short intermission in order to prepare the stage for this demonstration.

"The Widow's Inheritance"

MR. MERSHON: While the final preparations are being made I will give you a brief idea as to the underlying reason for this little play.

The characters, as you see on the program, are Miss Marjorie E. Schoeffel, Assistant Secretary and Assistant Treasurer of the Plainfield Trust Company, Plainfield, New Jersey, who takes the part of the widow, "Mrs. Hammond." Mr. E. L. Colegrove, Assistant Trust Officer of the Guaranty Trust Company of New York, takes the character of Mr. Cole, the trust officer. Mr. W. L. Hildeburn, Manager of Trust Investments of the Equitable Trust Company of New York, takes the part of the security man, and Mr. C. F. Wheaton, Assistant Trust Officer of the National City Bank of New York, that of the attorney, Mr. Wharton. Miss Lillian Brackett, of the Guaranty Trust Company of New York, will act as the Secretary.

We shall attempt to show the advantages to widows and other people, who are acting for the living and the dead, of bringing their affairs to the trust company and turning them over in the form of a living or other trust.

In this case Mrs. Hammond, whose husband died four months ago—leaving an estate of about $400,000—has been confronted with the usual problems of taxes, managing a property which is part stores and part apartment houses, her home, taking care of her children and their education, and she finds that it is more than she can continue with. In a rather distracted condition she comes to the trust officer and lays her whole story before him.

Mrs. Hammond has the backing of her attorney, who agrees, in fact urges her, to do everything that she wishes to do, and the little play ends by her creating a living or voluntary or personal trust, and placing all of her property with the trust company. In the course of the conversation it is brought out that she has made no will. A will is then suggested and prepared and in which she names the trust company.

After witnessing the play we want everybody in the room, who feels so disposed, to criticise or commend or ask questions. There may be a lot of thoughts in your minds, as the play is going on, as to why this character acted as he or she did. It is entirely proper, after the play is over, to ask why the trust officer, or the lawyer, did this or that. The widow is depicted as a very intelligent woman, though in some trust company and bank advertising the widows who are attempting to manage estates are not always so depicted. In our national publicity campaign we have endeavored to picture the widow as possessing all the intelligence, and just a little bit more, of the average person.

(The Playlet, "The Widow's Inheritance," has for the convenience of members desiring to reproduce it in their own cities been published separately, and will be supplied upon request.)

CHAIRMAN FOX: Now we will have the paper by Mr. Frederick Vierling, Vice-President of the Mississippi Valley Trust Company of St. Louis, whose topic is "Fiduciary Accounting."

Fiduciary Accounting

By FREDERICK VIERLING

Vice-President, Mississippi Valley Trust Company, St. Louis, Mo.

Mr. Chairman, Ladies and Gentlemen: It is a pleasure for me to be present today at this large gathering and to be allowed to take part in the program. I present to you a subject that does not receive from executive officers of fiduciary institutions the full consideration it is entitled to. Fiduciary Accounting is a very important subject, yet we officers do not realize it until we are put up against the various questions that arise, one by one. We should not leave these matters to our juniors; we must look after them as executives; they are too important not to have executive attention. The subject is one which, because of my own responsibilities, I have had to face for a good many years. After once getting interested, the subject will keep you interested. I wish to impress on you the fact that it is a big subject and needs big thought.

Different from Mercantile Accounts

There is a vast difference between mercantile accounts and fiduciary accounts. Mercantile business is conducted on the basis that each person concerned makes the best trade in each transaction that he can, all with the point of view of profit, controlled only by his sense of fairness and by competition. Fiduciary business is conducted under well-defined principles of equity and on the basis that the fiduciary must always look after the interest of the respective beneficiaries and must be impartial between them, and the desire of the fiduciary for personal profits must be checked and must never be an impelling motive of any action on the part of the fiduciary. To appreciate our subject fully requires a broad knowledge of equity as applied to estates and trusts and a profound knowledge of fiduciary law.

Definition of a Fiduciary Account

1. What is an account in a technical sense? It is a detailed statement of pecuniary transactions between persons, arising out of contract or a fiduciary relation; and a fiduciary account is a detailed statement of receipts and disbursements of money and property for an estate or for beneficiaries of an estate. It is not a trivial matter to keep a record of your fiduciary transactions; accounts ought to be kept permanently, with enough explanation in each of the entries, so that, when we are off the scene, our successors can read and know what we meant at the time of writing. Remember that fiduciary accounts run a long time; they are not settled from month to month, like our bank accounts, or from year to year, like our merchants accounts; fiduciary accounts run for years, for a lifetime, and they ought to be so kept that they will have evidentiary value in court, whenever there is occasion to bring them to court.

Evidentiary Value in Court

2. How ought fiduciary accounts to be kept? In a very systematic and understandable manner; not merely for experts, but so that when the accounts are reviewed, when facts are cold, we will know what the entries mean. Preferably, from a legal point of view, they ought to be kept in bound books; but, in these days of hurry and machine bookkeeping, we are getting away from bound books and keep trust accounts by the machine method and, of course, on loose sheets. We can in a measure overcome objections against loose-leaf bookkeeping, by keeping our loose-leaves properly identified in regular sequence, and once or oftener each year bind the loose-leaves into permanent books, so that, years hence, when our accounts are brought forward, they will have evidentiary value in court, the same as if they were written in permanent books; after they are bound they become permanent books. Courts do not interfere with our systems; they approve any sort of sensible system, so long as it is systematic, explainable and accurate.

A Compulsory Matter

3. Is the keeping of fiduciary accounts a voluntary matter on our part? No, it is compulsory. The moment a fiduciary relationship is established the law steps in and requires of the fiduciary the proper keeping of accounts. From the first moment we are compelled, at our peril, to keep proper fiduciary accounts. They must be kept currently with the business transacted, from day to day as the transactions take place, while they are fresh in our minds and in the minds of our assistants, while we know what we are doing. We must make our records faithfully and permanently.

Cash Book Our Most Vital Record

4. What is the most valuable book for legal purposes, in which to keep an account? It is not the ledger, the book we refer to often, as it is not the book that has full value in court; it is our cash book, or the equivalent, the book in which our day-to-day transactions are recorded in permanent form and while the transactions are fresh in our minds. Of course, we could not run our trust departments without our ledgers, and we rely on them, but we must get it out of our minds that our ledgers are our most vital records; they are not. It is our regular cash book, or the equivalent, that we use from day to day to make original entries. In court proceedings books of original entries are required.

Accounts Open to Review for Years

5. If our trusts are in court we necessarily render accounts to the court. If our trusts are not in court, we

render accounts from time to time, generally once a year, to our beneficiaries. When periodical accounts are rendered in or out of court we think the rendering of the account is a final transaction; that if the beneficiaries have any objections or exceptions to items in our accounts, they must act immediately. Periodical accounts are subject to correction or surcharge by the beneficiaries at any time before the last and final account is rendered in the particular trust. While we render periodical accounts, we must bear in mind that they have merely informative value and are not final by any means. Only when a trust runs out and we make a final account in court or to the beneficiaries, and after the account is adjudicated in a formal way and judgment is entered thereon or formally approved, does the account become final. If you will bear in mind, until that point is reached, that any question that occurred in the period of twenty-five years the trust may have run is open to review, you will get a sense of responsibility necessary in keeping your accounts full as well as accurate. When you bear in mind, in these long trusts, we may not be on the scene to explain entries, but someone else who is cold to the transactions recorded, we will realize that the bookkeeping part of our business is not receiving the attention it ought to have and legally must have.

Necessity of Proper Vouchers

6. We are continually paying money and delivering property pursuant to the provisions of our trusts, and if we make such payments and deliveries out of court they are at our peril. We must take vouchers, full vouchers, to explain what we have done from time to time, because in court the mere credit to ourselves for the payment of money or the delivery of property means nothing unless fortified by a proper voucher. The care of vouchers involves a careful system. When final settlement comes vouchers must be at hand, except possibly for very trivial payments that no one will question.

Jurisdiction of Court

7. Our courts of common law jurisdiction have little control of matters of account. Jurisdiction was originally in courts of equity—courts of chancery they were called—and whenever a situation became sufficiently entangled so that the "pros" and "cons" of an account could not be examined in an open court proceeding, the court would appoint a special master or referee, who in the quiet of his office, with ample time to examine into accounting matters, to take testimony where testimony is needed to explain things that are not self-explanatory, could investigate all items thoroughly and make written report to the court for its decision.

Each Estate Must Be Kept Separate

8. Our accounts ought to be kept in such manner that the transactions of each trust are shown separately and can be got at separately. This does not mean that we cannot have a common cash book, through which our cash entries are made, or a common security register through which our securities are recorded; but it does mean that our systems be so clear that each estate can have its own separate record for audit and examination without involving any other. We are bound to keep in mind that in trust matters the cash must be kept separate, the securities kept separate, each trust from every other trust, and all trusts from our own assets. Unless our trust business is so conducted it is not on the proper basis.

Joint Trusteeships

9. In cases where there are joint fiduciaries it is the custom of corporate fiduciaries to keep the funds and securities and to keep the accounts. It is just as much the legal duty of individual co-trustees to keep accounts, but they leave it to us and we assume the responsibility; when we assume the responsibility, the responsibility is ours as between co-trustees and ourselves. Where one trustee renders more service than another he is entitled to more compensation. In the division of compensation these matters ought to be regarded. In case of controversy we can ask the court to apportion compensation, remembering that, as between the estate and the trustees, only one compensation is allowed, and that one is divided according to service.

In the Case of Executorships

10. The method of keeping accounts for an estate, where we are executor or co-executor, is a good deal different from what it would be in case of a trust. Executors inventory an estate; they collect the income of the estate during administration; their prime object is to pay debts and liens and taxes against the estate. They need not inquire whether payment is made out of income or out of principal; payment is made from the estate as a mass, regardless of whether it is from principal or income. In other words, merely a matter of debit and credit in the account. If we keep in mind the prime purpose of such administration there is no harm in that; also, there is no objection to our keeping our accounts on an income-principal basis, but legally it is not necessary.

Guardian Accounts

11. The same may be said of accounts of guardians, where the court makes an appropriation for the maintenance of the ward and does not confine the appropriation to income. Of course if the appropriation for the maintenance of the minor is to come out of the income only, then we will have to keep our accounts on that basis, so the exact income of the estate can be ascertained from time to time and payments regulated accordingly.

Trusts

12. That easy way of keeping accounts does not apply to trusts. When we make payments out of the income of a trust from year to year we are confined to the income, and have to be very precise in our entries as they affect principal or income. We have to be very strict in the division of our items, where division is necessary or proper.

Origin of Many Principles

13. It is common understanding that annual taxes are always a charge against income, whether against a trust, a person, a firm or a corporation. Where in the law books do we find decisions affecting so simple a question? Only in accounts relating to trustees. The principles are stated in connection with trust accounts. They have arisen time and time again and always will. The principles announced in connection with trust matters are carried over into corporation and other matters and into income tax matters.

Time in Which to Convert Property

14. One subject that gives a trustee a good deal of trouble is where the trustee is directed to convert property, the trustee being given discretion as to the time in which to convert. Ordinarily a trustee is expected to convert property within a year, unless the time is extended. From what time does the life tenant get income from property so converted? If the conversion takes place within the year then from the time of the actual conversion. If it takes place after the year, in a long line of decisions, dating back to 1801 (when Lord Eldon as chancellor announced the principle) it is assumed the conversion was made at the end of the year. From the end of that time the life tenant is allowed net income at the rate of four per cent. That basis has been approved time after time since. Occasionally, courts allowed six per cent; but the rule is to allow four per cent net.

Suppose we as trustee receive real estate; it is unimproved; we cannot sell it right away without sacrifice; after a period of time it is sold. Theoretically the holding of it is for the benefit of the estate as a whole. Are we going to deny the life tenant all income from such property? Are we going to charge the life tenant with all the taxes we have paid out in the interim and credit all the net proceeds of the sale to capital?

The courts say: Count the property converted in due time; offset against the proceeds of sale the carrying charges, or charge the taxes to capital; then capitalize the net proceeds, so that, counting the property sold as of a time when it should have been sold, it will be counted to have been at interest for the benefit of the life tenant, usually on the basis of four per cent per annum, not compounded. How will we determine what the capital should have been in the years past on the theory that the property had been converted in due time?

For example, suppose a trust has run for five years and at the end of five years we sell unproductive property; on a four per cent net basis the fund would have earned twenty per cent—four per cent each year for five years. If we divide the net proceeds of sale by 1.20, we will get a remainder that represents the assumed capital held during the years passed. We will credit the amount based on that division to capital, as permanent capital, and credit the excess over that capital to income.

The rule is that a life tenant "takes the bitter with the sweet;" that if an estate is composed of income producing property as well as unproductive property, the burden is on the life tenant to carry both classes of property; that is all right, so far as a general basis for our action is concerned. However, courts have been giving relief to life tenants, whether the estate held a single piece of unproductive property or whether the estate held some unproductive property and some income property. Only in one case that I recall did the court approve what a trustee had done. A trustee in Massachusetts prepared a settlement on the basis outlined and the court approved it. None of the other cases that I am familiar with have gone that far. This means to me that we trustees cannot voluntarily make such adjustments; but we may explain to our life tenants their rights in such matters and let them initiate legal proceedings, the result of which will be, without fail, that the courts will give them relief.

Wasting Assets

15. Another item that gives concern is where trustees take over assets that are called wasting assets. Suppose a leasehold estate that runs out in a short period of time; we are inclined to consider that rental payments belong to income. That seems common sense. But if we pay out the annual profit, on a ten year leasehold, at the end of ten years we have nothing; we will have paid so-called income to the life tenant and we are out and we are responsible. What ought to be done with a situation like that? We will have to treat it on a present worth basis. We will find out, on an annuity basis, what is the present worth of these annual payments. In some jurisdictions they count at six per cent, some at five and some even less; five is generally the average. Reducing these annual payments to their present worth gives the capital value of such wasting asset; capital gets credit for the capital value and becomes a permanent part of the trust fund; the excess collected represents income that the life tenant is entitled to.

16. You are devised a piece of real estate that has timber on it. The testator, in his life time, was conducting a lumber business, and cutting the timber from his land. That may be the best way to use land of that sort, and the way the court will approve, but you cannot count the net proceeds of the timber as income. Such proceeds will have to be capitalized, just as in case of a leasehold, and the division made on the capitalized basis.

Ordinarily, the cutting of timber is a waste of an estate.

17. Suppose you are devised a coal mine. At the time of his death the owner was running a coal business. The courts say, in such case the trustee has an implied right to go on with the business, and the trustee is allowed to consider as income the net proceeds of the workings of the mine, because they were open at the testator's death; the courts assume that when he creates a life estate, in an estate of that nature, his devise of the income meant something; they presume that the life tenant is to get that kind of income. But suppose in the development of the property, you, as trustee, open a coal mine, and produce coal and sell it, you, as trustee, are on a different basis. The courts say, in that case, that you are wasting the estate, and must make good to capital the amount of the waste and make the adjustment already indicated.

Testamentary Trusts Not Simple

18. If a trust is created by a trustor in his lifetime, under a trust indenture, it is quite a simple matter to take over the assets and have them valued and know where you start. It is not quite so simple when the trust is created by will. There a man is called suddenly from the scene of his activities and leaves his business more or less disturbed; we do not know how much we are going to get until the inventory is made, the inheritance taxes paid and his creditors satisfied; we take over some assets that have a ready market value and some that have no market value; it is a serious proposition to decide just what is the amount of capital. We cannot know it instantly in the second case. There is a sharp distinction between what is capital and what is income; in our trust accounts that sharp distinction must be observed. In those states where the fair market value of an asset must be determined when the inventory is made, it is one proposition. In those states, no matter what the value, if any—and you inventory assets at par value—it is quite a different thing. We have to adjust ourselves to our local laws in that respect.

As our trust runs on, we receive further items or pay out certain items. It is not always possible readily to decide whether an item is a capital item or an income item; great discimination must be exercised. For instance, in the expenditure of money for repairs on property, if it is merely a replacement of what already was, generally we count it an income disbursement; but if it adds to the value of the capital some part or all of the expenditure must be treated as an addition or a permanent improvement—an investment of trust funds in real estate. We cannot leave that to our juniors. That is one phase that bears heavily on our consciences and on our idea of fairness; we are trustees and required to be impartial; we must not side against one class of beneficiaries and in favor of another.

The Fairness of Every Item

19. The same may be said of other disbursements. Some ought to be charged to capital. Where the expenditure involves the very existence of a trust, or where it is of importance to decide whether it is for an improvement or repair, we must be thoughtful. Of course, counsel fees incurred in connection with the preservation of a trust are generally treated as a capital expenditure. Ordinarily counsel fees that are incurred from year to year, in connection with annual settlements and the like, are merely an expense of the estate. While the fairness of every item is subject to review, it is up to us, when we make a payment, to decide what the amount ought to be. We cannot leave that to a junior; it is the burden of the executive officers of our institutions.

What Is Rent Due at Death?

20. Another item is quite serious, especially where the estate consists largely of real estate. It is a point upon which we often make mistakes; even those who have had experience. What shall we do with rent from real estate, due at time of death of owner, collected after death? Many credit such items to income. That is an error. What is rent due at death? Legally it is a debt and as such should be added to capital of the estate, the same as any other debt due the decedent, although collected after death. Suppose under a long lease the owner is entitled to collect rents quarterly in advance. Suppose on the second day of a quarter he dies. Had he collected the item on the first day of the month it would have increased his estate in cash by the amount of the payment. The devisee would take the real estate with that much of an encumbrance—as rent prepaid—and he could not complain; he takes what is given him as it is. Whether the rent was actually collected or not makes no difference in trust accounting. If the rent was due at the time of death it should be collected by the executor and credited to capital of the estate, except in some states where there is a contrary local rule by statute.

Past Due Coupons

21. By bequest under a will we receive bonds and notes as part of a trust estate; sometimes bonds have past due coupons attached; we dare not treat such coupons as income items; they also were debts due the decedent at the time of death, like any other debt, and when collected form a part of the capital of his estate. There is a general rule of law prevailing that interest accrues from day to day, and interest is pro rated on that basis. Capital account should get credit for interest accrued to time of death of owner of bonds and notes and life tenants should get income accruing after death of testator. We must not overlook the adjustment.

Accrued Dividends

22. Where we receive cumulative preferred stock in trust, dividends may have accrued on such stock.

Shall we treat accrued dividends the same as accrued interest? No. While preferred cumulative dividends accrue, they are not payable until earned and declared by the directors of the corporation; their decision is necessary to make the dividend collectible. It is my view when such dividends are collected during the trust that they should be treated as a capital item and not income. There are few decisions on this point and they are not uniform. It certainly appears that cumulative preferred stock in a solvent corporation should be considered as worth over par, by reason of the accumulation of dividends unpaid.

Current Dividends

23. What about the adjustment of current dividends on the death of a testator? They are not pro rated. The courts are unanimous in holding that the date of declaration of ordinary current dividend decides the point. If declared before and unpaid at the death of the testator, the item is treated as a debt due the testator, and when collected is added to capital account. Such dividends declared after death of the testator, although earned before or partly before, are considered income for the life tenant. On subsequent death of the life tenant such dividends, although earned during the life tenancy, if not actually declared by the board of the corporation, go to increase the estate of the remainderman.

Bills for Repairs

24. A testator owning real estate has contracted for considerable repairs to his property; as the work is completed he dies; the bills are not paid. Does the burden of paying them fall on the life tenant or remainderman? Neither. It falls on the estate and thus finally on the remainderman. At the time of testator's death the items were debts owed by him; the mere fact that they related to real estate makes no difference; as debts due by the estate, they are allowed by the court and paid out of the estate. Thus they affect the amount of capital in the estate.

Rents from a Life Tenant's Estate

25. You have held real estate for a life tenant; she dies. Do the same rules apply to the distribution of rents, as in case of death of owner? They do not. A life tenant's estate is entitled to a pro rata of the rent accrued at death, although not payable until after death. In our settlements as trustee with the estate of the life tenant we cannot follow the rule applied at death of testator. In the case of a life tenant, rents are said to accrue from day to day, like interest, and must be divided on that basis.

26. What about expenses incurred for repairs during a life tenancy; who bears them? The life tenant's estate. It is true the repairs may have been made near the end of the beneficiary's enjoyment of the property; that is a risk he or she takes in connection with the enjoyment of an estate; while the expenses are incurred for the future, they are debts prior to the life tenant's death, a burden only on the estate of the life tenant, and not prorated.

If Default Occurs in Mortgage

27. In connection with our receipt of assets of an estate, we receive mortgage notes and bonds. If there is no default in the mortgage, things run along without any worry; if default occurs, we will have to enforce our rights against the security. Suppose in our discretion we nurse a loan along, in the hope that it will work out; in the meantime, interest accumulates; finally we foreclose; the net proceeds of the foreclosure may or may not be sufficient to pay principal and interest in full; if sufficient to pay principal and interest in full, the matter is settled; if not sufficient, what are we going to do about it? We cannot, first, pay off principal in full and credit balance on income; nor vice versa. The mortgage secures both principal and income; it is our duty to pro rate net proceeds of foreclosure, so that the net proceeds are divided in proportion to the amount of the whole debt, principal and interest; that is as the principal is to the total, and as the unpaid interest is to the total. The procedure is the same in case of a collateral note, where we foreclose a pledge.

Railway Bonds in Default

28. The fiduciary institutions in St. Louis recently had an experience. The bonds of a railway were in default six years; a bondholders' committee was organized; the committee succeeded, after much effort, in selling the bonds as a block at ninety-five flat; each $1,000 bond was worth legally $1,000 principal and $300 in interest at five per cent. While the proceeds were not proceeds of a foreclosure sale, after some consideration we decided we should treat the ninety-five flat the same as proceeds of a foreclosure sale; treating the ninety-five flat as if the proceeds of a foreclosure sale, we credited to capital of our trusts 100/130 of the amount received and to income 30/130. On bonds held by the different institutions at a value above or below the credit to principal, there was a profit or a loss to principal that had to be adjusted forthwith, like any other profit or loss. It was a new question to us. We believe that is the way it will be approved, when it gets to court.

Trust Dates Back to Date of Testator's Death

29. Where trust assets are specifically bequeathed, the life tenant is declared to be entitled to the coupon rate on bonds or the contract rate of interest. It is not our responsibility as trustee receiving specific property to make any other adjustment of income. A life tenant is

entitled to income from the taking effect of the trust at the death of the testator, although the securities will not be received until later. Where securities come to us by way of residuary bequest, there are some complications. We should not take the securities at their value on the day we get them, but at their value at the death of the testator. We are required to relate the gift back to the date when the testator died. It is true we as trustee may not receive the assets for a year after; however, when we do receive them we relate them back to the day of death of testator and we distribute the income accordingly. While the assets were in the hands of the executor, the executor may have used income in the payment of allowances, debts and expenses of administration. All right, so far as the executor is concerned; all wrong so far as the trustee is concerned. When the assets finally come to the trustee, the trustee must analyze the executor's accounts, relate everything back to the day of death of testator, adjusting the income on that basis, and starting the trust account as of the day of death of the testator.

Other Points Frequently Arising

Our Chairman calls attention to the fact that the time allotted to me has expired and I must close. In closing may I suggest that you further pursue the subject by the study of the following points frequently arising in fiduciary accounting: (a) Adjustment of stock dividends on shares held by trustees; (b) adjustment of extraordinary cash and other dividends on such shares; (c) adjustment of liquidation dividends on shares held by trustees; (d) adjustment of premiums on bonds purchased or received by trustees at values in excess of par; (e) adjustment of discounts on bonds purchased or received by trustees at values below par. I thank you for the kind attention you have given me. (Applause.)

CHAIRMAN FOX. Before we adjourn I would like to say that the meeting tomorrow morning will be at nine-thirty instead of ten-thirty, as it was this morning. Please be prompt. The meeting is adjourned.

Adjournment.

Third Session
Thursday Morning, Feb. 18

CHAIRMAN FOX: I am very happy to say that Dr. Finley who was unable to be with us yesterday is here this morning and I have the pleasure of introducing him to you now. He will talk to us on "Charitable Trusts."

Charitable Trusts

By JOHN H. FINLEY, LL.D., L.H.D.

Associate Editor, New York Times

I hope the occasion of my absence, yesterday, was explained to you. I am very grateful to Dr. Anthony for taking my place. I am, this morning, a grandfather. (Applause.) Mr. Parsons, when he asked me to come and speak here intimated that I was not to speak more than twenty minutes; he said, "No Souls are saved after the first twenty minutes." My twenty minutes are almost over, to begin with, and moreover, I understand that your souls have already been saved. All that I can do in the matter of the subject that has been assigned to me is to give added comfort to you in the fact that your salvation is secure. What I have brought here is, as the adapted proverb has it, "Coals to Pittsburgh." I think I might call it a bit of coke, because what I have brought has been subjected to fire before. (Laughter.)

Bankers and Lawyers

I assume that this audience—I do not know much about it, but I assume that it is such an audience as I had a few weeks ago when I spoke on this subject—is divided into three parts, one part lawyers, one part bankers, and the other part those who are dependent upon lawyers and bankers for such guidance in temporal things as is not vouchsafed by direct revelation, such as Dr. Anthony is acquainted with. I think we of the third group do not usually fully appreciate our debt to these two other groups, though we go to them in every emergency, as we go to the doctor in time of physical sickness. Lord Brougham defined a lawyer of his day as, "A gentleman who rescues your estate from your enemies and keeps it for himself." (Laughter.) But, today, the community turns to him as one who not only defends our estate from our living enemies, but helps to protect it for us, after we are dead, from innocuous desuetude, that is, what is left after the inheritance tax in its avaricious and socialistic and confiscatory tendencies has shown itself, as the President said a few weeks ago. There is need of such an agency as the community trust to save what is left to the highest social use.

And as to the bankers, the community trust has adopted the advice which some American banker has phrased in this slogan, "Put not your trust in money, but put your money in trust," so that when you have to go away, you can have the continuing advice of wisdom that comes after you, in this universe of change, or so that you will not find yourself in such a plight as Old Ucleo, of whom

Benjamin Franklin wrote in his "Poor Richard's Almanac":

"I give and I devise,"
Old Ucleo said and sighed,
"My land and tenants to Ned."
"Your money, sir?"
"My money, sir? What, all?
Why, if I must"—then wept,
"I give it all to Paul."
"The manor, sir?"
"The manor?
Hold!" he cried,
"I cannot part with that,"——
And died.

Obsolete Bequests

But though Franklin, unlike Ucleo, took ample time and gave serious thought to his will (by the way, as a printer myself I find great satisfaction in the fact that this great man who had held some of the highest offices in the world, in his will designated himself simply as "Benjamin Franklin, printer,") and practical and far seeing though he was, he himself would have been greatly helped in making his benefactions if he could have availed himself of the services of a community trust, for even he could not foresee what was to come to pass within a century of his death, industrially, politically, socially and electrically, partly because of what he did. Indentured apprentices, for whose assistance he left a certain fund, no longer exist in America, so there are no applicants for his benefits.

As for his other fund—I fancy these illustrations are well known to you, but until a few weeks ago they were comparatively new to me—providing for the piping of water, one hundred years after his death, from the Wissahickon Creek for the use of Philadelphia, it was practically useless, because within another one hundred years, the Creek had gone dry—dry I mean literally, not metaphorically. (Laughter.)

Another such illustration (I got this from Mr. Hayes, I am like a man who has picked up a few chunks of coke or anthracite along the railroad track—I suppose you have heard it, but I repeat it because it is all I have) is the generous intent of the Mayor of St. Louis, back in the time of the "Forty-nines"—(we speak of Missouri with great respect, I passed the opera house last night and saw the greater part of Missouri standing there. Excuse me for that interpolation but—they did show us something, last night!) The Mayor of St. Louis left a bequest for those who traveled in covered wagons, such as are to be seen now only in moving pictures here in New York or in books, and exist only in the imagination of the many and the remembrance of very, very few, of whom I happen to be one, and I am not eligible for the fund.

It, therefore, behooves the living to remember that if they wish their bequests to remain and live after they have gone, they must not try to hold on to them when their hands become lifeless. The Community Trust is a vehicle in which the dead still live and move and have their beneficent being, in the midst of the universe of change. Endowments are desirable, but with them should go the power that builds life on death and on changing conditions.

Expected Always Happens

To quote from an editorial I saw in the "New York Times," this morning:

> "The unexpected always happens, it is said, but simply because those who are surprised by it have not been sufficiently informed to know what to expect. To the omniscient, as to the present and the future, it is the expected that always happens, and it is the part of wisdom to avert emergencies by preparing for them and banishing hazards by eliminating chance."

Here are some illustrations of what is happening as a result of meteorological study: The expected generally but not always happens in the day of weather prediction, and so on with the eclipse of the sun; in the universe known to the physicist, he is able to predict what is to happen on the morrow. If the moon had not appeared at the very moment that it was predicted, it would have appeared in making the eclipse last year, and, of course, we should know that the whole universe was out of joint.

Protection for the Future

Where future happenings cannot be foretold, even by the divination of science, and where the individual cannot defend himself against the unexpected, men in the mass, through preparation for what comes to all, sooner or later, can give some protection through insurance or common defense, or such a trust, for example, as that which we are discussing this morning. A Community Camp, for example, makes certain that no one shall die of smallpox and a covenant that no one shall perish of the pestilence that once walked in darkness. There is no man who can say that any particular individual of all of us or all of this city will be alive tomorrow, but our Health Commissioner can tell, with approximate certainty, how many individuals will die tomorrow. Expectancy is a matter of such accurate actuarial determination that, for great groups, what is expected happens. But there are large exceptions, acts of God which man is impotent to prevent, as hurricanes, tornados, earthquakes and floods, pestilence and the like. It is to provide in advance against such things, against unnecessary loss of life in the face of such sudden disasters, especially in the great city in which this committee has just been organized, of which you read in the papers, yesterday.

Dr. Hollis Godfrey, of Boston, gave us a picture of the helplessness of that city, and he spoke of that city simply because he happens to know about Boston, he lives there, and he said that in any great disaster, fifty-six out of every one hundred would have to carry the forty-four helpless on their shoulders, like Aeneas carrying his old father Anchises from Troy.

This suggests the desirability of making like investiga-

tions here and in every great city, when the percentage of helplessness is larger here in New York, certainly, than it is in Boston, because of the great skyscrapers and the congestion here. If we cannot prevent the happenings of the unexpected, at any rate we can be prepared, so far as that is humanly possible, for the unexpected, when it does happen. Face emergencies with our engineering skill, educate children and grown-ups alike to do the intelligent thing, as if by instinct. Then have flexible community funds, bringing the individual, even after death, to help defend his city and build it into a better city, for as is said in the Book of Ecclesiasticus "Children (the revised book should say grandchildren) and a city establish a man's name."

Individual Helps the Collectivity

I was out in Chicago a few months ago, when a gift of a million and a half was made to the community trust in that city, and we have had here in New York Mrs. Felix Warburg's notable gift, which not only has created a beautiful memorial and given aid to a service of present highest benefit to the community, but has set an example to future givers to commit their funds to the keeping of an agency that will have discretion to do what they would do if they were alive, which will live as long as their gifts will endure, lengthening and blessing the lives of others. So the individual helps the collectivity, if I may use that word, even after the individual's death, in the wisest possible manner. I was out in Russia about three years ago (and I hope you will not criticize me for my association, I thought it was an opportunity to become informed) and I sat at dinner one night with a number of commissars, and one of them said, in a speech that seemed to me most significant, "We are going to develop, here in Russia, a new type of Russian, an American Russian, a collective individualist." You can imagine my surprise at hearing one of the leaders of the Communist party there say that they were going to try to develop individualists, collective individualists, individualists who were one hundred and eighty degrees Communists, but individualists who have a thought of the collectivity, that is, of the community.

It is the fostering among individuals, of the wise, free use and bequest of possessions for the common good that we shall find, incidentally, our surest defense against compulsions of socialism and communism, and the prospect of individual immortality upon earth. (Applause.)

CHAIRMAN FOX: After this very delightful address which Dr. Finley has given us, I am very proud, as a Pennsylvanian, to know that his ancestors came from Pennsylvania, and I feel that a large part of the credit for the enjoyment that we have had this morning comes from Pennsylvania. And certainly, in view of the quotation he made from Ecclesiasticus, Pennsylvania is entitled to the credit for the grandchildren—the descendants. (Laughter.)

How We Spread the Knowledge of Our Trust Department—On the Inside*

By FRED W. ELLSWORTH
Vice-President, Hibernia Bank & Trust Company, New Orleans

Fiduciary banking is relatively new. The functions of the trust department are highly technical, and in most banking institutions are familiar in the main only to the officials of that department. As a consequence, most bank officers in the other departments are unable intelligently to solicit or obtain trust business.

Realizing this fact, the senior officials of our bank some time ago organized a study class, with our Trust Officer and Assistant Trust Officer as instructors. Meetings of the class are held at regular intervals and are conducted along discussional lines.

The first subject to be considered was the Louisiana law as it applies to the fiduciary functions of the trust company. And this was followed by a consideration of actual trust forms covering the duties of the executor, the trustee, the administrator, the tutor, the curator, the custodian, etc.

It is a human fact that most people prefer to do business with folks with whom they are personally acquainted, and this is particularly true with regard to business of so confidential a nature as that transacted in the trust department. It is far more satisfactory to both sides, therefore, when a customer can discuss his trust business with a personal friend, even though he happens to be active in some department other than that devoted to trust business.

After our class had been going on for some time, and its members had gained a working knowledge of the subject, names of prospects were selected from our live prospect list and assigned to the various officials. Frankly, the results so far have not been anything alarming, although a number of accounts have been obtained.

Business of this character of course does not come

*Note: This is a summary of the address which Mr. Ellsworth had been requested to give but which, due to unavoidable absence, he was unable to present.

rapidly, but it is our belief that by continuing this program the business of our trust department inevitably will grow far more rapidly than could possibly be the case if the department did not receive the intelligent, active cooperation of the entire official personnel of the bank—as is now the case.

We recommend this plan to those who have not tried it!

CHAIRMAN FOX: The next speaker is Mr. Pierre Jay, Chairman of the Federal Reserve Bank of New York, whose topic is, "The Federal Reserve—A Gold Trusteeship."

The Federal Reserve—A Gold Trusteeship

By PIERRE JAY

Chairman, Federal Reserve Bank of New York

Mr. Chairman, Ladies and Gentlemen: It gives me great pleasure to appear on the program at the same time as one of the Vice-Presidents of the Old Colony Trust Company of Boston, because I once held that title, myself, twenty odd years ago, in fact, I got my first experience of banking as a Vice-President of the Old Colony Trust Company. Not knowing much about banking before I went there, I started by looking after new business and advertising and that sort of thing, and I am interested in seeing that one of your speakers, this morning, is going to talk on "How to Solicit Trust Business Without Offending the Bar," because I remember I had a great deal harder job than that in the Old Colony Trust Company, for on our Board we had four or five of the most important personal trustees in Boston, and our job was "how to solicit trust business without offending our directors." (Laughter.)

Work of Trust Company Division

Mr. Chairman, I should like, on behalf of the bank which I represent, to express, through you, to Mr. McLucas and Mr. Mershon, the very high appreciation we have of the effective educational work their committee has been doing in bringing the trust companies of the country and the Federal Reserve System closer together. Your committee has been at it now for two or three years, and has done a splendid work, not only in the direction of increased membership but in clearing up some of the misunderstandings that have existed in the minds of trust company officers about the operations of the Federal Reserve System, and in giving officers of Federal Reserve banks a better understanding of trust company problems.

Relation of Federal Reserve System to Corporate Fiduciaries

Mr. Mershon, in asking me to speak this morning, said he would like to have me relate my talk to the fiduciary work of trust companies, which is the subject of your deliberations this morning, and I find no difficulty whatever in doing so.

After long experience with the administration of trusts by individuals, the trust departments of trust companies and national banks were created to deal with the special business of administering trust property. Similarly, after long experience with the administration of the country's gold reserves by individual banks, it was found desirable to create a special organization—the Federal Reserve System—to deal with the special business of administering the gold reserves of the banks of the United States.

The organization and conduct of the Federal Reserve System in many ways embodies the well-known principles of a trusteeship. All sections of the country are equally represented and protected. Instead of a single central bank we have twelve regional banks, each with its own directors and officers who live in the district and know its conditions and needs. Careful provision is also made that all types of interests shall be represented in the directorates of the Reserve banks. These directors, by law, must be composed partly of bankers, partly of men engaged in commerce, agriculture or industry, and partly of men representing the interest of the general public. At present, of the one hundred and eight directors of the twelve Reserve banks, sixty are business men or farmers. Similarly, the Federal Reserve Board, appointed by the President and exercising general supervision over the System, must represent the different interests and sections of the country; no two members may come from the same Federal Reserve District. Beyond the salaries or fees which officers and directors respectively receive, no one of them has any financial interest in the Reserve banks. Neither the public nor the Government holds any Reserve Bank stock. It is held only by member banks, each of which must own an amount equal to three per cent of its capital and surplus. President Wilson, writing to Senator Underwood just before the Reserve banks opened, said:

> "No group of bankers anywhere can get control. No one part of the country can concentrate the advantages and conveniences of the System upon itself for its own selfish advantage. I think we are justified in speaking of this as a democracy of credit."

Investments Safeguarded

The law safeguards the Reserve banks against undesirable investments. It also removes any incentive to operate them for profit, which might be contrary to the interest of the country as a whole, by requiring surplus earnings, after six per cent dividends and the accumulation of a reasonable surplus, to be turned over to the United States Government as a franchise tax. It even goes a step further and eliminates possible pressure by the Administration or Congress for large earnings by requiring any surplus earnings turned over to the Government to be used only to reduce the Government debt or to place additional gold behind the greenbacks. As the purpose of this trusteeship is not earnings for the beneficiary but the maintenance of the reserves in a condition of great liquidity, the investments which are made under the law and the regulations consist almost entirely of short bankers acceptances and short borrowings by member banks, which latter must be secured either by government paper or by commercial paper of a type which must be in its essence self-liquidating.

A Living Organism

So much for the principles under which the Federal Reserve acts as trustee for the banks of the country in administering their gold reserves, i.e., local self-government, impartiality, safety, liquidity. But this is not a trust which, once invested, is put away in the vault only to be reviewed or checked over once or twice a year by auditors or investment committees. In the early days of the System some bankers, brought up on occasional issues of emergency currency or clearing house certificates, used to suggest that the Federal Reserve should be a kind of glorified safe deposit vault, holding the gold and the power to extend credit and issue notes, as a purely emergency function. But this was not the kind of institution the law conceived of. The law contemplated a living organism to facilitate, through member banks, the immense volume of purchases, sales and payments which go to make up American business. Therefore, the Federal Reserve banks have developed facilities whereby member banks may, with speed and economy, convert into reserves the cash, checks, notes and drafts which they receive as the daily turnover of industry, commerce and agriculture.

On the average, the Federal Reserve banks handle each day about 6,000,000 pieces of currency, 7,000,000 coins, 2,500,000 checks, 200,000 notes and drafts, and $350,000,000 in telegraphic transfers. In receiving this cash, in effecting these telegraphic transfers and in collecting these checks, notes and drafts, in such immense volume, it is obvious that the Reserve System is not a passive safe deposit vault but an active, living organism, thoroughly enmeshed, through the member banks, with American industry, commerce and agriculture.

General Purpose and Functions

For several generations prior to the establishment of the Reserve System we had not had any organization responsible for general credit conditions. When panics arose, emergency leadership was organized, only to disband again as soon as the emergency had passed. In the meantime our bankers and business men knew that there was no organization equipped to anticipate and prevent money panics, to be responsible for general credit conditions and to exercise some influence upon them. Looking back to this period, Colonel Leonard P. Ayres, Vice-President of the Cleveland Trust Company, recently said:

> "There has been a fundamental change during the past ten years in the general atmosphere under which American business is carried on. Business used to be conducted in an atmosphere of fear—fear of financial stringencies and currency panics. Since the establishment of the Reserve System, business is conducted in an atmosphere of confidence."

The Federal Reserve System is charged with some responsibility for general credit conditions. If the System were merely a safe deposit vault, holding the gold reserves of member banks, it could neither discharge this responsibility nor exercise any influence on credit conditions. A ship which has no headway cannot respond to the rudder, but the moment the ship gets under way the rudder becomes effective. For their first two and a half years, the Reserve banks were out of contact with the money markets and powerless to exert any influence. For the next five years, war and post-war conditions imposed upon them an abnormal volume of investments, resulting in an abnormal increase in the volume of credit. Since 1922, with a more normal amount of discounts and securities, aggregating about a billion dollars, they have had constant contact with the money market and have been able to exert on general credit conditions what might be considered a normal influence.

Contact With New York Money Market

As this meeting is held in New York I should like to go into some detail concerning the contact of the Federal Reserve Bank of New York with the New York money market. The New York money market is a good deal larger than New York. It is really a national money market. Because of its size and central location it is a center to which idle funds gravitate for temporary employment. Banks and business corporations all over the country, which have on hand funds which they do not need immediately but yet must have immediately available for future needs, send these funds to New York and deposit them in banks, or invest them in bills, commercial paper, or short Government securities, or lend them on call or time against stocks and bonds as collateral. Their relations with the money market are almost entirely through the New York banks, and the surplus funds they employ in New York are sent there

because they can be withdrawn immediately if needed at home.

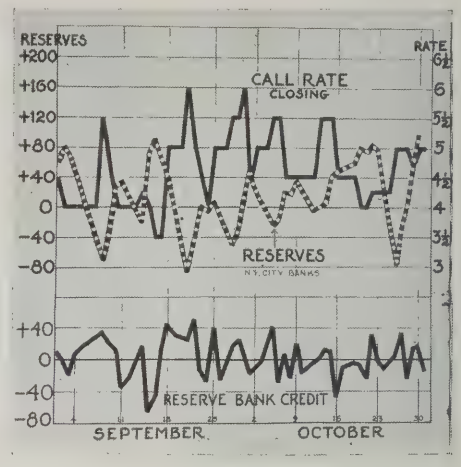
The New York money market thus is a pool of liquid investments in which the country's surplus cash resources are carried. It represents the secondary reserves of banks and business concerns all over the country. Whenever extra funds begin to pile up anywhere, they begin to pour into the New York market. Whenever additional funds are needed anywhere, they are drawn from the New York market. The New York market thus carries a heavy load of responsibility for the country's financial welfare. If the investments in which these funds are carried in the New York market become unliquid and cannot be instantly converted into cash, the result is disastrous.

In the old days the large New York City banks bore the brunt of any disturbances in the money market. Whenever the out-of-town withdrawals of funds exceeded the supply of incoming funds rates rose, and at times the New York banks went down into their reserves and provided the necessary cash. The individual New York City banks were the last line of defense, except in serious times when the Secretary of the Treasury sometimes made deposits in these banks to enable them to meet the situation. When a real panic arose the clearing houses in New York and other large cities came to the rescue and manufactured temporary cash by issuing clearing house certificates. But, generally speaking, the New York City banks had to provide for the daily adjustment of the supply of credit to the demand, and one of the best indexes of credit conditions was the amount of their surplus reserves shown in the weekly clearing house report. These surplus reserves indicated the margin of safety in the banking situation. When there ceased to be a surplus, then the country knew the limit had been reached, and sometimes panics ensued. For there was no way except the resort to clearing house certificates—itself an evidence of panic—by which these reserves could be made elastic.

Contrast With Former Days

The Federal Reserve Bank of New York provides the elasticity which formerly was so woefully lacking. It thus has a very important relationship to the money market, for it holds the reserves of the New York City banks and can lend against these reserves in busy seasons and emergencies. In the old days we used to have panic conditions in the money market with money unobtainable at any rate, while at the same time the New York City banks held hundreds of millions of gold in their vaults. But this was their legal reserve which they were supposed to maintain intact, even in emergencies. Now, by borrowing at the Reserve bank their reserves have become elastic and the dead line has disappeared. When out-of-town funds are withdrawn from the New York money market, the New York City banks must still furnish them, but there is this difference, that if their reserves are thereby impaired they may and do replenish them by borrowing from the Reserve bank. Thus every unusual demand upon the money market affects the reserves of the New York City banks and is in turn reflected in the loans and investments of the New York Reserve Bank.

The closeness of their relationship is shown in the following diagram:



Bank Reserves and Call Rates

The above diagram gives actual figures for each day during last September and October.

The top line shows the call loan closing rate.

The second line shows the amount by which the actual reserves of New York City banks were above or below the requirements for the week to date.

The third line shows increases or decreases in the amount of credit furnished by Federal Reserve banks in New York City, either by rediscounts or advances to New York City member banks, or by purchases or sales of bankers' acceptances or short government securities in the New York market.

It will be noted that there is a very close correspondence between the call loan rate and the reserve position of the New York City banks. When reserves are deficient and the banks are seeking to restore them, call money rates tend to be high; when there are surplus reserves call money rates tend to be low. Similarly, there is a close relationship between the reserve position of the banks and the amount of Federal Reserve credit called into use. When reserves are below requirements the banks borrow from the New York Reserve Bank, or sell bills to it for itself and other Reserve banks, thereby restoring their reserves. When reserves are above requirements banks use the extra funds to pay off their indebtedness at the Reserve bank and the amount of Federal Reserve credit in use is decreased.

Still further to summarize, this usual correspondence will be noted, with some variations:

(1) low reserves, rising call rates; increasing volume of Reserve bank credit.

(2) high reserves, declining call rates; decreasing volume of Reserve bank credit.

Steadier Conditions

It will be seen that instead of the New York banks having to assume the ultimate responsibility for the money market they are now able to pass back a certain amount of this responsibility to the Federal Reserve Bank. The Federal Reserve Bank in turn exercises some influence upon the extent to which the member banks draw upon it by its discount rates and by the rates at which it purchases bankers' acceptances. Also, at times, by buying or selling in the open market short government securities, the effect of which upon member banks is to decrease or increase their indebtedness at the Reserve Bank and bring them either more or less under the influence of its discount rate.

Thus it will be seen that the member banks and the money market now have back of them a reservoir of credit which may be availed of if necessary. But this reservoir is not passive like the water reservoir, it is highly organized and capable of exercising some control over the extent to which it is drawn upon. Through its existence, money rates have become more stable than formerly, the seasonable swing of interest rates has almost disappeared and the danger of currency panics has been eliminated. As a consequence, the New York money market has become a safer repository for the country's secondary reserves.

International Importance

These steadier conditions in the money market, coupled with the fact that in the last ten years there have been added to the money market two new and very prime instruments, the bankers' acceptance and the short Treasury certificates, have been instrumental in giving the New York money market an international importance that it could not formerly have. New York has become a new center for the investment of the surplus funds of the world, and now shares with London the responsibilities which go with this position. Not only do foreign commercial banks and other corporations, on account of the increased banking and commercial importance of the United States, keep larger balances here and invest funds in our money market, but many foreign banks of issue now carry some of their surplus funds in our money market, a thing which I think we may safely say they seldom, if ever, did prior to 1914. With these larger contacts between the New York market and markets in other countries our money market conditions are much more affected by those of foreign countries than before. Conversely, the better organization of our own money market enables this country to exert more influence than before upon gold movements and exchange fluctuations.

As the Federal Reserve Banks—and, primarily, the Federal Reserve Bank of New York, because it is situated in the New York money market—are the organizations which have responsibility in such matters, we have felt it desirable to establish contacts and relations with a number of the important foreign banks of issue which have similar responsibilities in their respective countries. By means of these relationships, information is exchanged which is mutually valuable in the discharge of these responsibilities, and such business transactions as may be necessary and proper are undertaken.

At a time like the present, when the world is slowly, but surely, struggling back to the gold standard, the Federal Reserve Banks, as you know, have in certain cases, where requested and where a definite program made it practicable, extended credit to foreign banks of issue to assist in the resumption of gold payments or for the improvement of their monetary conditions. Our feeling has been that aid so extended to foreign banks of issue was a valuable contribution on our part to American commerce, industry and agriculture, because it assisted in stabilizing foreign currencies, markets and purchasing power. We have also felt nothing could so facilitate the free flow of credit from one market to another in accordance with the natural laws of supply and demand as to have the important money markets of the world resting again firmly on a gold basis.

To sum up, then, the Federal Reserve System acts as a trustee for the gold reserves of the banks of the country. It is charged with their administration in the interest not of the banks alone but of business and the public as well. Just now, as this country holds far more than its usual proportion of the world's gold supply, the Reserve System probably holds in its trust a certain amount of gold that may eventually flow back to other countries. The administration of this gold trusteeship involves not merely some measure of responsibility for credit conditions at home; it also involves some regard for the relation of the American money market to the money markets of other countries.

CHAIRMAN FOX: Our next speaker is Mr. C. B. Royce, Assistant Secretary of the Brooklyn Trust Company, whose topic is, "Ancient Precedents for Modern Wills and Trusts."

Ancient Precedents for Modern Wills and Trusts

By C. B. ROYCE
Assistant Secretary, Brooklyn Trust Company, Brooklyn, N. Y.

Mr. Chairman, Ladies and Gentlemen: It naturally takes various kinds of subjects to make up a complete program, and we all appreciate the immense amount of work that our Secretary, Mr. Mershon, puts into the preparation. But he certainly has a deaf ear with those of us whom he asks to write an article or make a speech and who tell him we are "too busy" or are "not qualified"—he smiles blandly and says, "Thank you, old man, then I'll count on you." He simply does not hear our objections and that is why I happen to be here.

He suggested to me the subject I was to cover and how large a package I was to make of it, and I will attempt to give it to you as briefly as possible in the hope that you will find it interesting.

Everyone who has had to do with the publicity and advertising of trust company services has undoubtedly felt that the "copy" which was produced for his company's advertisements, whether newspaper, magazine or booklet, has every quality of salesmanship which was necessary to produce results, *provided it was read.* But no doubt many of us have felt that only comparatively few of the large audience of possible customers were reading the well thought out, compelling phraseology that we were using.

Mr. Sisson has truly said that if all the possible customers for trust company services could be made to realize how useful, economical, and helpful a trust company could be to them in one or several ways, the present trust company organizations could not commence to handle the volume of business which would be immediately offered.

However, when we compare the advertising of trust companies today with what it was only a few years ago, we note what a distance we have advanced in trying to draw attention to our business, and I am confident that every year will show increased improvement and therefore greater results.

Although the trust business of the Brooklyn Trust Company has increased over 400% in the last few years, we more and more realize that we are only scratching the surface of the great source of possible business all around us.

New Method of Advertising

With this point of view in mind, we decided to try a new method of advertising approach through the newspapers, and fill a large part of our space with authentic incidents of ancient customs regarding the disposition of property comparative to the modern will or trust idea, and so give a more human interest feature to our advertising.

The amount of material that was unearthed was practically limitless. It was not a question of getting enough of it, but rather to pick out the most interesting for our purposes. It meant, however, translating parts of books, magazines, and articles from various languages—French, Italian, Spanish, Russian, etc., and then, of course, boiling each incident or story down into perhaps one hundred or one hundred and twenty-five words.

To make the advertisement stand out on the printed page, and add to its attention-compelling value, each advertisement was topped with its own specially drawn illustration authentically picturing the text of the matter or incident which followed. Without putting the following incidents in chronological order, you may be interested in some of the information which we have collated.

Dissimilarity of Ancient Wills

While there are many points of similarity in the making and execution of wills today with those of ancient and medieval times, there are one or two outstanding differences—perhaps the most noticeable being that appositive to our present day custom, wills were not secret. On the contrary, their very validity depended upon a high degree of publicity. They were generally not revocable, and once made could not be altered. They did not depend upon the fact of death to put them in force in certain respects, and not only was the property of the will-maker passed along to the beneficiary, called at that time "Successor," but this "Successor," besides taking the testator's property, took his status as head of the family, tribe, city or kingdom, and accepted the deceased's debts, duties and obligations, financial, domestic and even religious.

Origin of Today's Executors

For many centuries we find by a study of primitive civilization the Church (or what corresponded to the Church in Pagan countries) was the main institution to carry on the work of executing wills and holding property or estates in trust. The real origin of our present day executors in most countries was to a great extent ecclesiastical. Under the guidance and sanction of the Church, the dying made over his goods to some friend of the priest, who was to carry out his wishes, a sort of trustee as it were.

Tacitus writes of the Teutonic tribes of his own day —the Gaule Burgundians and Goths—"A person's own children are his heirs and successors and no wills are made. If there are no children, the next in order of inheritance are brother, paternal and natural uncle." This is significant in view of the fact that these Teutonic tribes are the only known people who did not at an early stage develop at least some tangible form of verbal will.

From Plutarch we note that, before Solon's time (about 600 B. C.) the Athenians were not allowed to dispose of their estates by will, but that during his reign laws were inaugurated which permitted those who were childless to leave their possessions to whom they pleased. However, legacies obtained by duress, imprisonment, threats or persuasions, were forbidden. Solon considered that such means of obtaining bequests operated against reason and were therefore invalid.

Horror of Dying Intestate

From early Roman writings comes down to us the fact that even the common men of the city had a very real horror of dying without a will. One of the bitterest curses that could be hurled against his enemy at that time was the wish that he might go to his death with his will unmade.

In ancient Rome—before the "Twelve Tables" of Roman Law, and when the art of writing was little known—wills consisted simply of a verbal declaration before the General Assembly of the people, called "Comitia Colata." This assembly was held twice a year for this purpose, and the entire community acted as witnesses. The verbal will then became legal and was executed by the Pontiffs on the death of the testator. Soldiers on active duty, however, were required to speak their will in the presence of only twelve companions, regardless of rank. After Justinian, only written wills were legal and were called Praetorian wills, seven witnesses were required to sign, and seven other witnesses to seal the document.

An almost sacred character was attached to the rights of children in inheritance. This is clearly shown by the incident concerning a certain Roman father who was immediately placed under guardianship as a lunatic when he attempted to disinherit his issue.

The Trustee Function

We find traces of the trustee function in the middle ages among the Francs and Burgundians as evidenced by the following translation from "Salic Codes"—"He who wishes to dispose of his property casts into the lap of the 'Salman' a straw, at the same time designating the property he wishes to convey to him in trust. If the property is a house the Salman then takes temporary possession, and to show his right to the possession, entertains therein three or more guests. Within twelve months of the death of the donor the Salman, by the same symbolic act of casting a straw, disposes of the property in the manner designated by the donor." This official called the "Salman" was practically a probate court and executor and a trustee all in one. (The illustration for this advertisement was one of the cleverest of the series, and caused quite a bit of comment.)

Early Wills of Orientals

The remarkably high moral sense early developed by some Oriental races is vitally reflected in stories which have come down to us regarding early wills of Oriental people. An interesting example of this occurred during the reign of one Awaningaun, King of Ara, in Burma. A very wealthy man died and out of his property a quantity of gold of the finest quality about the size of an egg was presented to the king. This monarch, however, refused to accept it, saying that it would be derogatory to his dignity and exalted position to accept the present when there were heirs to the deceased's property.

An interesting incident from old Japan in 475 B. C. concerns a small group of the Mikado Kosho's subjects who formed an association to conduct the business of managing and settling the estates of rich Samurai—(practically the same plan which is the basis of our modern trust company service). The three leaders of the group, however, were rounded up and beheaded—the claim of Celestial Justice being that such group responsibility could not have a conscience and was therefore unfit.

The Mussulman Law of Succession or Inheritance was similar to the decedent law of the various states in this country today. It was worked out to the last detail, and provided definite proportions of the deceased's property for the various members of the family. It was mandatory and could not be defeated by the testator.

In India and many other Oriental and Asiatic countries conformity with the established religious faith of the group family is often made a condition of the validity of an heir's claim. This fact may partly explain an item which I happened to notice in one of yesterday's papers:

"MUD HUT PROFITS

"The world championship for real estate thrift goes to a Calcutta coolie just died in Calcutta, leaving a fortune of $125,000. His largest day-earnings as a coolie were eight cents. His first investment was the purchase of a mud hut at $20. This he sold with 400% profit, with each successive turnover investing in more pretentious property. As he died without an heir, his savings went to the state."

This man may not have had any direct heirs, and in tracing his relatives further removed they may not have belonged to the same caste. If so, by virtue of an ancient Mohammedan law, dating back to 585 A. D., the property reverted to the native state.

European Customs

In Spain, according to the law of inheritance, the oldest son in the family acts as executor if the head of the

family, the father, dies. He acts purely by tradition as his father would have done. Nevertheless, all the immediate members of the family, including the grandmother and grandfather on both sides, are entitled by law to their share of the estate. The Abbot of the district was entitled to a beneficence upon the death of his parishioner.

In France, unlike any other country, the wife has always been the first consideration, and then the children. In the middle ages, previous to the ecclesiastical reforms introduced by Pope Gregory the VII, a peculiar state of affairs existed in regard to the church's relationship to inheritance laws. Before these reforms, if a man did not conform to the laws of the church, he was excommunicated and estranged by the community. When this happened, the excommunication extended not only to his personality, but also to his worldly goods to the extent of his entire estate. Therefore, so great was the fear among the ignorant and superstitious people of the fact of excommunication, that rightful heirs often failed to claim their property. As a result of this, in practically every case of excommunication the estate of the victim upon death was confiscated in its entirety by the church. This is of historical importance because of the fact that here we have one of the most striking methods by which the church amassed such tremendous power and wealth during the years from the twelfth to the fourteenth centuries.

Until 1914 and the Great War, the Russian Empire depended in its internal organization upon possession of land. This possession entailed two kinds of obligations on its proprietors. If they were peasants, they owed taxes; if they held freeholds, they owed service. The latter constituted the Imperial Army and service began at the age of fifteen. At that age a son received a portion of the paternal domain, or if the family was too numerous to permit of this, a fresh allotment of land was given him. When the father died, his lands were divided among his sons. The state in no way intervened in the matter of inheritance, except to see to it that each lot of land was represented by a man able-bodied and capable of military service, and if not, the laws of war permitted confiscation by the Crown and redistribution in any way, however unjust.

No Written Wills in India

In India written wills were unknown. The last will of the dead was verbally transmitted to the ruler. Then it became a question whether the temptation to spoil and plunder was overcome or welcomed by the ofttimes hungry treasury of the native state, and nine times out of ten when the latter condition prevailed, the job was so thoroughly done that the heirs became public charges.

As the law stood in the time of Henry the II, 1150 A. D., one-third of a man's goods went to his children, one-third to his wife and the remainder he could dispose of otherwise as he wished, but the church's teachings for centuries influenced his disposition of the latter third to pious uses and relief of the poor. In the common speech of the day, this one-third division was spoken of as "Wife's part, Bairns' part, Dead's part."

Perhaps one of the earliest mentions of executors as such were in the wills of King John and the Earl of Pembroke, which were executed in 1219.

Oldest Known Wills

Egyptologists in recent years have unearthed many ancient wills—some engraved on parchment and others cut into stone or on clay tablets. There are at least three which seem to antedate all others, and apparently were written over four thousand years ago—more than 2,500 years B. C. It is interesting to note, to quote a famous authority in regard to one of them at least, that it is "so curiously modern in form, is so plainly expressed and properly witnessed, that it might almost be granted probate today."

And so through the centuries we find that the method of disposition of one's possessions at death was more or less similar to the testamentary arrangements of the present day. The liberality and protection of modern law, however, to those who advantage themselves and their families by having their wills drawn, and naming a qualified executor seems to be nearly perfect. It still remains the duty of the trust companies to emphasize to the public the importance of will making, and the practical and assured accomplishment of future plans through the appointment of a corporate executor.

To this end, each company will direct individual effort in many different ways, with a resulting increased business for all, as our services become better known and understood. (Applause.)

CHAIRMAN FOX: The next speaker, Mr. Merrel P. Callaway, Vice-President of the Guaranty Trust Company of New York, will speak to us on, "How to Solicit Trust Business Without Offending the Bar." Mr. Callaway.

How to Solicit Trust Business Without Offending the Bar

By MERREL P. CALLAWAY

Vice-President, Guaranty Trust Company of New York

Mr. Chairman, Ladies and Gentlemen: "How to Solicit Trust Business Without Offending the Bar" assumes in the first place the propriety of soliciting trust business. It is by no means universally accepted as the correct thing for trust companies to do. Within the last few days I have received a letter from one of the largest trust companies in the country outside of New York City, from which I read:

> "This bank is seriously considering the formation of a Trust Development Department, having a representative interview all our directors, also calling on selected stockholders and depositors, explaining the services rendered by a trust company and showing them the advantages of a corporate executor and trustee, urging them to get their house in order for their beneficiaries after they have passed on. There seems to be a question in our minds whether the attorneys would look favorably upon this new adventure, feeling that we may be taking business away from them. Yet again I sometimes feel that we are really getting business for them which they would not have secured had it not been for our efforts. We would appreciate it very much if you would give us your opinion as to the merits of this work and how the attorneys of your city look upon it."

Personal Solicitation Proper

And I have had officers of trust companies here in New York and elsewhere express a doubt as to the advisability of maintaining a new business group for soliciting trust business and actively soliciting appointment under wills and other forms of trust business. My own view is that not only is personal solicitation proper, but that it is only through such solicitation that the trust company will receive its proper share of business and reach the point of greatest usefulness.

Such solicitation should not be by way of a general public campaign, but should be confined to a carefully prepared list of prospects made up primarily from the customers and stockholders of the company. After preparing the way through letters and pamphlets, these people should be seen by well-trained men, who can intelligently discuss trust matters. Care should be exercised by these men not to give legal advice or to accept responsibility for giving legal advice. That is the province of the lawyer for the customer.

Lawyers' Good Will Essential

Now the attitude of the Bar is one of the most important questions to be considered in connection with the solicitation and building up of trust business. In cities and communities where the trust companies have had the good will of the lawyers, the corporate executor and trustee idea has prospered. Where there has been no such good will the idea has not prospered.

Historically speaking, the handling of estates and trusts by individuals under express appointment has existed through the ages from the dim, distant past. The laborer working in the ruins of Asia and Africa turns up the testimonials of "nothing new." Naturally, as the system under which we live developed, the lawyer began to attract to himself some part of the administrative side of this business as distinguished from the legal, competing in that respect with the general public.

Through all that time, however, the great bulk of this business has been handled by individuals who were not lawyers, the appointment of lawyers as executor, trustee or administrator having formed, as it does now, only a small percentage of the whole. There developed, however, in most cities and some of the smaller towns, a few firms or a few lawyers who made rather a specialty of handling the business affairs of estates and themselves acting as executor, trustee or administrator. However, I think I am correct in saying that the very vast majority of the members of the bar handled, and continue to handle, only the legal side of estate questions, representing as lawyers the individual executors, trustees or administrators.

Advantages of the Corporate Fiduciary

Into this situation came the corporate fiduciary or the trust company. Believing and recognizing that a corporation, not subject to death, discontinuance or incapacity from one cause or another, with trained officials, could offer a great service to the public, these companies entered the field. Their competition, it will be seen, is not with lawyers, for the members of the bar, in the aggregate, handle only a small part of this business as executors, trustees, or administrators. The competition of the trust companies always has been and is now with the individual of the general public, just as the lawyer when he sought such business was in competition with the non-legal members of the general public.

Naturally there was some objection to the trust company or corporate fiduciary idea on the part of some of these members of the bar who made a specialty of handling the administrative side of estates. Generally speaking, however, the members of the bar welcomed the entrance of trust companies and corporate fiduciaries into this field.

Trust Companies and Lawyers Occupy Different Fields

The difficulty arose because through lack of vision or misguided zeal some of the trust companies in the early days undertook through their officials, who may have been, themselves, trained lawyers, to do the legal side of the work as well as the administrative part, or, where they did not do the legal side of the work through their own officials, to concentrate all such work coming into their hands in their own selected counsel. Where such conditions did exist, naturally the members of the bar felt that the proper field of the lawyer was threatened by the invasion of companies offering to have legal work done by their own officers, and that a fair division of the law business relating to estates would not be made among the members of the bar generally.

There has, however, been a complete change in the conditions, and in the viewpoint of these trust companies which did go too far in the effort to secure business. They have recognized that legal services should not be performed by them, and over the country as a whole there has been a recognition of the fact that the trust companies and the lawyers rightly occupy distinct fields, with increased work for both through co-operation.

This old condition, however, led to the passage of laws, or at least an agitation for such laws as would prohibit trust companies from practicing law, and aimed at this very question.

New York State has a law prohibiting corporations from practicing law, but it was not primarily directed against trust companies. Certain lawyers conceived the idea of forming a corporation for the purpose of practicing law, having a large staff of lawyers employed by the corporation and offering the services of the corporation as such, backed by the responsibility of the corporate capital. This effort was quickly stopped by the passage of a general law prohibiting corporations from practicing law. But for this, I seriously doubt whether there ever would have been any law in New York under which trust companies would be prohibited from practicing law, for the simple reason that there would never have been any real occasion for such a law. The trust companies never would have permitted themselves to be placed in an antagonistic position toward the members of the Bar.

Administrative Functions Separate from the Legal

However, the New York trust companies thought it desirable to make very plain and clear to the members of the Bar that there is no threat to them as lawyers in the effort of trust companies to develop trust business. The Corporate Fiduciaries Association of New York, shortly after its organization, passed resolutions setting out its attitude toward the members of the Bar, and distinctly declaring that trust companies were not practicing law, but co-operating with the members of the Bar, the trust company handling the business features and the lawyers the legal features of the estate; and further, that the trust companies recognized the justice of employing as counsel for the estate the counsel for the testator, or the attorney who was most familiar with the affairs of the estate. It was also made plain that the trust companies were not confining the legal employment in estate matters to their own counsel, and were making no effort to deprive the Bar generally from participating in the practice arising from estates. Trust companies in New York City in their advertisements point out the necessity of having wills and trust instruments drawn by competent counsel of the testator's own choosing.

These efforts on the part of New York trust companies carefully to refrain from invading the domain of the lawyer, and in justly protecting the lawyers in business rightly their own, has been the means of creating a great deal of good will toward the trust companies. A large part of the trust business handled by the New York trust companies comes from the members of the Bar, themselves. They suggest in many cases not only that a corporate executor, trustee or administrator be named, but suggest the company itself, and, naturally a lawyer could not be expected to designate a company if his own experience with that company had been unpleasant or had shown the company to be unfair to himself or to other lawyers.

This attitude of the New York trust companies toward the Bar is not due to the law, but to sound ethics and sound business. And it is just as sound outside of New York as it is in New York.

Trust companies everywhere, irrespective of any law, should separate the purely administrative functions from the purely legal functions in handling trust business, and make it plain to the public and the Bar that they do not practice law and offer no legal services. This is necessary in order to remove any lingering doubt of the purpose and attitude of the trust companies. Where this is done, I firmly believe that the trust companies can solicit trust business as actively and as publicly as they choose without offending the members of the Bar, but on the other hand through service secure their aid in advancing the cause of the corporate fiduciary.

CHAIRMAN FOX: One of the distinguished members of the conference came to me this morning, before we went into session, and said he thought there had not been sufficient opportunity for discussion of the papers. We are now going to take a little time for any questions or discussion in which the members of the Conference may desire to indulge. I will be glad to hear from everybody.

MR. STEVENSON (Wachovia Bank & Trust Co., Raleigh, N. C.): Mr. Chairman, I should like to ask Mr. Royce if in his study of ancient wills and trusts he found anything that was akin to corporate administration. Now, I know he did not find corporations doing fiduciary business, but I am wondering if he found any-

thing that was analogous or akin to associations, unincorporated, serving as executors or as trustees.

MR. ROYCE: I might almost say no, with the possible exception of the church or what constituted the religious head of the communities. But as you can easily imagine, the church of those days was so well knit together that the individual was simply a part of the whole. That is the nearest I can give you to anything like a corporation or trust company service.

Obtaining Satisfactory Wills

MR. R. H. TRACY (City Trust & Savings Bank, Youngstown, Ohio): I would like to ask Mr. Callaway, in connection with relations with attorneys, as to how he puts across getting attorneys to make the kind of wills that he would like to have made. We find some difficulty in that respect. If we get the party to the attorney, the attorney does not always confer with us, and we find that a lot of things that we would like to have taken care of are not covered.

MR. MERSHON: Mr. Callaway has left, because he is expected at a meeting downtown. As Secretary of the Committee on Co-operation with the Bar, I might attempt to answer your question. It is a pretty dangerous procedure to suggest to an attorney just what he shall include in a will or trust agreement that he is preparing at the request of a client. If the opportunity offers for conference, it can well be done at that time, but if you receive an instrument in your hands that has been prepared by an attorney—unless you are on very intimate terms with him—it would seem rather difficult to go to him and make suggestions, unless there is something obviously wrong in the instrument.

It seems to me, from my study of this subject, that the usual way is for the client to come to the trust company and discuss the matter, and then it is suggested that the client go to his attorney, and it ends happily, just as it did in our play here yesterday, the attorney acquiescing. But, of course in that little play the relationship between the trust company and the attorney was very friendly and, in the last analysis, is that not the real answer to the question? Maintaining a very friendly relationship with members of the Bar, informing them in regard to features which are usually contained in trust agreements and wills which are received by you, and giving them the benefit of the information which you have in regard to that particular client who is a customer of your institution, will help to solve the problem.

MR. C. F. MCGILL (Atlantic National Bank, Boston): I have strong feelings on that question. I do not believe there is a week in the year that some will does not come to my desk that is horrible.

There was one will covering property in three states. One of the statutes said what the will should do, and that had not been looked up. I happen to be an attorney, and I spent ten years on nothing but this work. I don't know very much about it, but I know enough not to leave out the very things the client wants there.

The average attorney, who is drawing a complicated will, takes it up and gets it out of his system as fast as possible. A dean of the law school once said, "The attorney's job is making every client think he is working just for him." That is what I tell them when they bring a will ready to be signed and four or five things are left out. I will admit it is not very easy to do this, you get yourself disliked.

I had an instance of one of our directors, who was creating a large trust for his daughter. He liked his son-in-law very well, but he was a young fellow involved in a large business, and he did not want to leave his property in his hands. He wanted part of it put in a "spendthrift trust" for his daughter, and the attorney left that out entirely. The client saw that and he said, "That is the first thing I discussed." He did not know enough about reading the trust paper to know whether the clause that he requested was there or not.

Now, whatever other people think about it, it is our business and duty, to give all the advice that we can to the client and to go over it with the lawyer. He may not like it and you may have to be very diplomatic, but if people are coming to the trust company for the administration of their business, they are going to expect your judgment and knowledge on the subject, and if you let the lawyer draw any will he pleases, you are not living up to the trust given you. (Applause.)

MR. ROBINSON: I would like to ask how far it would be policy for a company, in soliciting trust business, to offer to write the will, say without charge, or to refer the matter tothe solicitor of the company.

MR. MERSHON: You are on very dangerous ground when you write the will without charge or write it at all. A will is a legal instrument and should be prepared by a well qualified attorney and should be paid for by the person for whom it is written. I do not believe you can deny that.

Our whole endeavor, during the past few years, in the Trust Company Division, has been to secure the co-operation of our members in discontinuing the preparation of any legal document such as wills or trust agreements. That is the one thing that the bar has complained about. There may be some other things which they have in mind that they object to, but their verbal objection and written objection has been to the preparation of wills and legal documents, so that if you in your company, for instance, are preparing wills free of charge, we would urge you to discontinue the practice.

MR. STEVENSON: Mr. Chairman, may I make just one observation on the problem of getting the lawyer, who is naming your company as executor and trustee, to write such a will as meets the needs of the testator and also creates an estate that can be administered easily and promptly.

The company with which I am connected, which is the Wachovia Bank and Trust Company, of Winston-Salem,

and several other cities in North Carolina, has a regular schedule of commissions, as executor and trustee, which rather definitely defines the indefinite provisions of the statute, and wherever a lawyer intimates or indicates that he is considering naming our company as executor or trustee, we very readily suggest that he include in that will or in a paper along with the will definite reference to that schedule of compensation. We can do that perfectly properly. The ice is then broken between the lawyer and the trust officer in the discussion of other terms of the will. Having made the entree in this way, we are able to discuss not only the terms as to compensation but the terms of the trust and other phases of the disposition of the estate.

My experience has been that the lawyer who is friendly enough to the trust company to advise his client to consider naming the trust company as executor and trustee is not only friendly but is eager to get the point of view of the trust company and to incorporate in the will, as it is finally drawn, such terms of administration and disposition as will meet what the trust company considers to be the demands of a properly drawn will. (Applause.)

Retaining Good Will of Attorneys

MR. S. G. MCCLELLAN (Liberty Bank of Buffalo): I think we are all pretty much agreed that it is quite necessary to the successful development of trust business, to satisfy the heirs or the beneficiaries of a trust which we are administering. I would like to ask what would be your suggestion in this matter of retaining the good will of an attorney, where the beneficiaries of the estate or of the trust are opposed to the retention of that attorney.

MR. MERSHON: That is a pretty good question.

MR. J. CUNLIFFE BULLOCK (Industrial Trust Co., Providence): In reference to what our friend was just speaking about, we had an experience within three months, where a man died, leaving a large estate for which my company was executor. The will had been drawn by one of the most prominent lawyers in Providence who had had entire control of all the testator's legal business for upwards of five or six years. About three or four months before the testator died, for some reason or other which I have not been able to find out, he shifted his entire legal business, and, owing to a lingering illness, his secretary carried on his business between the new lawyer and the client. The client told her he was through with the former attorney.

We knew of the existence of the will, and when the man died, we had to decide what to do. Both attorneys are very strong friends of my company, and you can imagine somewhat the dilemna we were in. We were afraid to talk it over with the attorney who drew the will, because I did not think he knew of the other attorney, but thought that the client had not had any particular legal business in the last few months. I did talk it over with the attorney who had been attending to the legal affairs of the client, and this was the solution we came to. I will leave it to you whether we were justified or not.

We retained the man who drew the will to probate it and then his job is over. Now, in the process of the administration of the estate—and it is going to be a very difficult estate to handle—we are going to retain the man whom the testator had retained for the past five or six months. I am only waiting for the time to come when my friend, who probated the will, will find that out. (Laughter.) Nevertheless, I feel certain that I am on the right ground, and I, personally, cannot see how he has any complaint. It was a hard nut to crack, but I think we have done it, and I expect to be very much disappointed if we do not still have the good feeling of both of those attorneys.

MR. MERSHON: In order that we shall not pass up the question which was asked by our Buffalo friend, I will repeat it. What is the courteous way of dismissing the services of an attorney who drew a will, and to whom the beneficiaries under the instrument object? Mr. Hann, what do you think?

MR. HANN (Fidelity Trust Company, Baltimore): Mr. Mershon, I am not in the trust department, but in the bank department of our trust company. However, I take a great and deep interest in all departments of our company. If I were handling that problem, I would call a meeting of the beneficiaries and our trust officer and the lawyer. Before that meeting, I would have a little conference with the beneficiaries and, during that conference, if I could, I would have the beneficiaries express a desire for another attorney, and relieve my trust company of the responsibility of doing it.

MR. MERSHON: I think you would have a "Boston Tea Party" on your hands. That is a very practical question, and I think it should be answered by someone. I have very positive opinions about how it should be done, but I do not want to explode them here.

. . . Voices from floor, "Go ahead" . . .

Judge Hennings is resting back there very easily, he has had a lot of experience, he is an ex-lawyer and an ex-judge, and he knows, I think, how a lawyer can be dismissed courteously and properly.

JUDGE HENNINGS (Mercantile Trust Company, St. Louis, Mo.): Mr. Chairman, I feel that can be handled diplomatically or undiplomatically; it is a matter of discretion. If the lawyer who prepared the will has been dismissed, I think his services end with the probating of the will, and I would not hesitate one second in selecting a lawyer whom the beneficiaries agree on; on their failure to agree, I would select someone who would be satisfactory to my own institution.

CHAIRMAN FOX: We have one more paper this morning before we adjourn, "The Institute's Program for Training Trust Men," by Stephen I. Miller, Director of Education, American Institute of Banking.

The Institute's Program for Training Trust Men

By STEPHEN I. MILLER

Director of Education, American Institute of Banking

Mr. Chairman, Ladies and Gentlemen: In a period of not more than fifteen minutes, I want to tell you about the American Institute of Banking, with special reference to its relation to trust work. But in order that you may appreciate the development of our present program and future ambitions, I am going back for a very few minutes to create a basis for you.

The American Institute of Banking, now twenty-five years old, with 7,000 graduates, 185 chapters, 32,000 students enrolled in class work, 57,000 members, 600 instructors, and an annual budget of almost one million dollars, has come to this point of development through the co-operation of bankers and the interest of bank employees. Undoubtedly, the banks of America have been unusually benefited by this organization, first by virtue of the fact that men and women within banks have been technically trained for the better performance of their work and for a clearer understanding of the interdependence of the various departments, and second, by virtue of the fact that the Institute makes it possible to bring to the banks of America the best human material. The senior banker is indeed overlooking an opportunity to better his organization when he fails to point out to the man coming into the bank the existence of the study classes of the Institute. In other words, the banker is in a position to sell young men and women employment plus an education. The decision to take advantage of the opportunity constitutes a criterion of the ambition of the beginner. This is a consideration of very great value, especially in the light of the fact that many bankers now feel that the employees of today do not measure up to the standards of twenty-five years ago.

A Phase of Modern Public Service

Third, the Institute has helped the banks by virtue of the fact that it represents a phase of modern public service. If one were to be asked for the greatest economic event of the twentieth century, there would be little hesitancy in making an answer. Tariffs, income taxes, international debts, corn prices, instalment buying, and real estate booms would be given little more than a respectful recognition. The great economic development of the second quarter of the twentieth century will undoubtedly be referred to by historians of the future as the prevalence of gigantic mergers. Strange to say, the news of such consolidations has excited little comment on the part of the public at large. Public opinion has changed much during the last twenty-five years. One of the leading reasons for little comment in regard to the present wave of mergers is to be found in the fact that the larger business units of the United States have introduced vast business economies and above all faithfully served the public. The American Institute of Banking represents an important phase of this contribution. The man in a bank who is constantly in touch with people constitutes the bank's contact. If by education he is able to introduce a better organization of his work and at the same time meet the public with more courtesy and larger vision, not only the bank but the entire field of finance has been benefited. Farsighted business men desire to educate their employees who are responsible for both economy and service.

The future of the American Institute of Banking must be built along two lines: first, vertically, by creating further facilities for study; second, horizontally, by establishing group study units in the smaller cities. Students who graduate from the Standard course of the Institute have acquired a foundation in the field of finance. It is most unfortunate that many men and women after having received the Institute certificate do not continue with their educational program. The very best educational facilities and conditions follow the Standard courses, students having learned how to study, having come to greater mental maturity, and having an opportunity to do more specialized work in smaller classes.

Trust Work Growing

Among the special subjects of interest to bank men and women, trust functions stand at the very head of the list; first, trust work is growing by leaps and bounds due to its integrity and efficiency; second, the complexity of modern business and investments requires the ability of the specialist; third, trust work is definite, requiring a knowledge of accounting, law, economics, and finance; fourth, the administration of estates is essentially human, calling for the finest character, supreme personality, and superior vision.

The forthcoming textbook on trust functions will be the eighth of the Institute series. Within the next few weeks the outline of this text, covering about eighty-five pages, will be ready for distribution. During the past few months a good book has appeared on Trust Departments in Banks and Trust Companies, which is available pending the completion of the Institute text. The National Office of the Institute has also received an outline of a trust course given by the chapter in San Francisco covering one hundred pages. All this material will strengthen the work of next year and should do much to increase

the number of classes in this important field. At the present time there are about 500 students enrolled in the trust classes of the Institute. The next two years will undoubtedly see a much greater interest in this subject.

Committee to Devise a Special Course

So much for the expansion of the work—so much for our trust work. I would like to ask the President of this Division, to name for me a committee of three or five, with whom I might sit before this conference adjourns, and I would like to ask that Mr. Johnson of Chicago, be placed on that committee or be invited in in order that we may discuss the set-up of a special course in trust functions for the larger chapters of the American Institute of Banking throughout the United States.

It has been a splendid opportunity to come before you men and tell you in a few words something of what the Institute is doing and hopes to do and I very much appreciate it. I solicit your co-operation as it has been forthcoming in the past and want to tell you that we are all busy trying to develop not only your particular field, but trying to bring to the educational program of the American Institute of Banking better instruction, larger vision and a broader service, not only for banks but for the people of the entire United States. (Applause.)

CHAIRMAN FOX: In accordance with that request, a committee will be appointed to confer with Mr. Miller. Announcement will be made of the committee, this afternoon, and the meeting will be held tomorrow. We will now take a recess until two o'clock.

Adjournment.

Fourth Session
Thursday Afternoon, Feb. 18

CHAIRMAN FOX: The Conference will please come to order. One of the numbers on the program for this morning was the report of Mr. Denio, Vice-President of the Old Colony Trust Company, on the subject of, "What We Have Done About the Federal Estate and Gift Taxes." Unfortunately, Mr. Denio, who was here this morning, is not able to be here this afternoon, and Mr. Mershon will read his report.

Estate Taxes

MR. MERSHON: Many of you men, no doubt, are questioning in your minds as to the activity which has been going on in connection with the Federal Estate Tax, the Federal Gift Tax, and the other features which were contained in the report of the Special Committee on Taxation and presented at the Atlantic City convention. Following the adoption of that report by the Executive Committee of the Trust Company Division, and the passage of a resolution by the convention, several thousand copies of the report were prepared and distributed to all parts of the United States, and all of our federal legislative machinery was set in motion in order to have the Federal Estate Tax and the Federal Gift Tax eliminated from the new law.

The third recommendation contained in the report was the elimination of inheritance taxes on the intangible personal property of non-residents. Necessarily, we could not do anything on that in Washington. We did, however, use our best efforts to have the publicity provision eliminated from the revenue bill.

On October 22nd, 23rd and 24th, we had a delegation in Washington, and were accorded a very courteous reception by the House Ways and Means Committee, and given ample opportunity to present our side of the question. We also met with a delegation of governors, who presented the views of about eighteen or twenty states, and went with them in a body to the House Ways and Means Committee and filed our recommendations.

Early in January, we called a meeting of our Committee in Chicago, and prepared a brief which was filed with all Representatives and Senators. The Committee, together with General Counsel Paton and all the legal machinery, have been very active. The bill as passed by the Senate is just about as we would like to have it, and it is now going to the Conference Committee.

Purpose of Trust Playlets

A number of people have asked me regarding the play which we produced yesterday. At the Atlantic City meeting, we had a playlet which has already been reproduced by trust companies and banks in about fifteen different cities. The purpose of putting on these plays is not to attempt to teach you men a lot of things you already know, but to show you how you can reproduce these playlets in your own cities, before audiences composed of your officers, directors, employees, stockholders, customers, prospective customers and anybody else you want to invite. Yesterday's play and the one we will put on in a few moments will be available to you in pamphlet form in a very short time, and we strongly recommend that you use one or both, in spreading the gospel of trust service in your community.

CHAIRMAN FOX: We will now have the demonstration, "Protecting the Estate." Mr. Leon Gilbert Simon, Lecturer at New York University, and Mr. H. Douglas Davis, Treasurer and Trust Officer of the Plainfield Trust Company, will present this demonstration.

MR. MERSHON: Just a brief word of explanation of what we are going to attempt to demonstrate. A rather "hard boiled" manufacturer is sitting at his desk and an insurance man enters the room and tries to sell him some estate service. We are trying to show that the insurance underwriter, today, is talking the same language as the trust officer. We are so close together that when you

hear an insurance underwriter talking you cannot tell whether he is an insurance underwriter or a trust company man. This is the result of our work in co-operation with the insurance companies of the country.

The total insurance in force in the United States, at the beginning of this year, was seventy-two billion dollars. It will not be long before it will be one hundred billion, then two hundred and then three hundred—three hundred billion dollars is just a little bit too much money for me to think about, because I do not know what it means. But with one hundred billion dollars of insurance in force in the United States and with about one-thirtieth of that being paid each year, you can use your mental arithmetic and see how much money will be paid out by the insurance companies and just where the service of the trust company comes in, in protecting and conserving these sums of money.

(The trust playlet, "Protecting the Estate," together with the ensuing discussion, is published in a separate pamphlet and may be obtained upon request.)

CHAIRMAN FOX: The concluding number on the program today is the open forum. Mr. Mershon has some questions which have been submitted for discussion and we will now take them up.

Naming One's Own Institution

MR. MERSHON: Here is a very sad one; we could spend the rest of the day on it: "How to secure a proper measure of co-operation from the bank's directors in their appointment of the bank as the executor of their estate?"

In traveling about the country, I have learned of some very sad cases, where after the death of a certain director, it is discovered that the institution across the street or around the corner or some individual has been named, and I hold that that director has done more harm for the institution in his death than he could possibly have done good for it during his life. (Applause.) In other words, if a director of an institution accepts that position, it carries with it not only his living but his dead endorsement, and if he cannot name the institution, somebody should be secured in his place. There are a few exceptions and legitimate ones, but in my judgment 90 per cent. of the directors and even more should name the institutions they represent.

Is there anybody in the room who has had any experience in selling all of their directors on naming their own institution? Please rise—the 100 per cent. men. Mr. Morris, of Newton, New Jersey, I congratulate you.

MR. OWEN: I sold fifteen out of sixteen.

DELEGATE: I would like to ask, if it would be in order, as throwing some light on this situation, how many men in this room have made their own will and named their own trust company as executors? (Majority of hands raised.) There is a little personal work to be done, yet.

MR. MERSHON: A short time ago, I addressed the Hoo Hoos, in Seattle, at one of their luncheon meetings—the "Hoo Hoos" sound as if they might give you the "ha, ha," but they did not give it to me. There were sixty-five men present, and not one-half of them had made wills; I think about 60 per cent. had insurance; yet those men represented the great lumber industry of the Northwest. Each man was building up an estate and was not protecting himself adequately with insurance. The great percentage of them were willing and content to go along without any wills.

Right of Widow to Choose Co-Executor

MR. ROBINSON: Mr. Chairman, very frequently a director may hesitate to appoint his own trust company as trustee and executor under his will, because he realizes that the company may not be in a position to discharge the duties efficiently. With that in mind, I would like to have some expression as to the advisability of a man appointing, say, his wife, as one of the executors and giving her the right to choose a trust company as co-executor and trustee, and in the absence of such choice, to name a trust company.

MR. MERSHON: I wonder if that would not start a lot of trust officers going around to see the widow. (Laughter.)

MR. ROBINSON: I asked that question because a leading lawyer in Philadelphia took a great deal of pride in the fact that he had some provision in the will which gave the wife the right to choose a trust company trustee and executor. I would like to know how far it is advisable for that to go, and whether there would be any objection to it.

MR. MERSHON: That is really quite a serious question as to whether the naming of an institution should be left until after the death of the testator and in the hands of the widow, at a time when her judgment may be very much affected through quick death, accident or some other contingency in connection with the estate and she is least equipped to make decisions.

The case brought up by Mr. Robinson was one in which the naming of a co-executor with the wife is left to her discretion when the will becomes operative. In other words, after the death of her husband, she is to name a bank or trust company to act with her.

MR. ROBINSON: And if she fails to do it, then the testator names the trust company.

MR. CHALFANT (The Colonial Trust Company, Pittsburgh, Pa.): I think the last alternative would probably be good in Pennsylvania. We had the question not long ago of parties desiring our company to be co-executor with the wife, the wife having been named as the sole executor. Our counsel advised it could not be done under the laws of Pennsylvania, and the registrar of wills made the same decision. The testator has the right to name his executor, but nobody else. The alternative was for the wife to renounce.

MR. MERSHON: Any agreement or disagreement?

JUDGE HENNINGS: Mr. Chairman, I have heard about the keenness of Philadelphia lawyers; I do not believe that that rule applies in any other state in the Union. The testator has the sole right to name the executor. I do not believe that responsibility can be shifted to anyone else. If an attempt were made to name a co-executor, the Probate Court would name such person as administrator, dividing the responsibility. I doubt very much whether any court ever passed upon that proposition in the manner in which Mr. Robinson puts it.

MR. CHALFANT: I would like to say that was the conclusion our counsel came to. The question was never decided, and there was no statute in Pennsylvania permitting it.

MR. BOWMAN (American Trust & Safe Deposit Company, Chicago): I feel quite sure that the Illinois statute would not permit that alternative.

DELEGATE: I have a practical case in mind right along that line. There is a particular estate that appoints a brother and an attorney as executors, and it goes on to say that after the estate has been wound up—of course, there is a trust estate created—those two executives have the privilege of appointing one of three trust companies. I would like to know what is wrong with that picture.

MR. MERSHON: Two executors have the privilege of naming one of three trust companies as trustee.

JUDGE HOLDEN (Union Trust Company, Chicago): I think the distinction must be borne in mind, at least in Illinois, between an executorship and a trusteeship. A great many lawyers draw wills giving powers of executors without trust powers; where there are trust powers, there can be appointments or shifting of trustees; under the statute in Illinois, the only way to substitute an executor is by one resigning.

MR. ROBINSON: Then I understand that the consensus of opinion is that while the testator would not give power to his widow to select the executor, he might give her power to select the trustee. Am I right as to that?

CHAIRMAN FOX: I think that was the sense of Judge Holden's answer to your question.

MR. MERSHON: Here is a question that is a little bit lighter in weight.

Best Prospects for Trust Service

"How to discover the real 'prospects' for trust service and thus cut down the cost of selling?"

There are a number of men whom I know can get up on the floor and tell us how to discover real prospects for trust business, and when you discover real prospects for trust business and cut out the unreal ones, why, of course, you are saving money. Would you speak for just a moment, Mr. McDouall, on how to discover real prospects for trust business?

MR. MCDOUALL (Fidelity Union & Trust Company, Newark): A short answer, co-operate with life underwriters.

MR. MERSHON: That is a very practical one and what Mr. McDouall is doing each day in his company, underwriters are bringing him trust prospects and he is selling insurance for them. It is a co-operative proposition, and the public of Newark are benefiting. That is a little endorsement, from the platform, of your work. Mr. Chalfant, how about you?

MR. CHALFANT: I would give anything in the world if I could answer that question.

MR. MERSHON: I thought you knew.

JUDGE HOLDEN: See your credit department.

MR. MERSHON: That can be taken two ways, Mr. Holden, see your credit department for the best prospects or the ones you want to avoid seeing.

JUDGE HOLDEN: If you pick apples, you pick the good ones.

MR. MERSHON: Who else has something to say on that? Well, here is an opinion for what it is worth: A man or woman who has a bank account with you, and it is a good one, or a safe deposit box, or is purchasing bonds from your bond department, or is buying mortgages from your mortgage department, is the best prospect for trust business that you can have, because it is easier to get a person who already has one foot in your company to take another step and get both feet in, than it is to go out on the street and grab somebody by the collar and try to get him to walk toward your door.

A number of years ago, I demonstrated that when I was in active trust company work, and hesitated long enough to systematize what bankers and trust men had been trying to do for a great many years and became the father of the Central Card System. It is simply a little system where you record on one card the name of each of your customers and the affiliation that that individual or firm has with one or more departments; all those not affiliated with the trust department as shown by the blank space on his card, are prospects. They are not all good prospects, but by a careful analysis, you will find the ones who are. Of course, that does not rule out that great number of people who make inquiries about your service, who answer your newspaper advertisements; or those desirable prospects that you learn of from time to time, whom you want to name your institution.

I speak at length on that, because I have had quite a lot of experience in getting trust business just along those lines. On account of its simplicity, it might not appeal to many, but simplicity sometimes is the proof of greatness.

MR. TIBBETTS: Mr. Mershon, I wonder, in answer to this question, why we did not all of us think the first thought, co-operative advertising? Of course, one of the big expenses in trust development is our newspaper advertising appropriation. Imagine the terrific force of co-operative advertising of New York companies alone! As applied to other cities, it might not be as great, but it seems to me that idea might be worked out. Isn't that one logical answer?

MR. MERSHON: Mr. Tibbetts, we have been preaching that gospel from coast to coast, and it has taken hold in some localities. We are continuing our prayers that it will take hold all over the country and become an actuality in many cities.

CHAIRMAN FOX: The Conference is now at an end. We all appreciate very much the faithful way in which you have attended the meetings, and we hope it has been a profitable Conference for you thus far, and we hope as many of you as possible will remain for the extra day tomorrow, when important topics are coming up.

Adjournment.

Fifth Session
Friday Morning, Feb. 19
Business Extension

This entire session was devoted to a discussion of business extension and development problems, the open forum method being used and Leroy A. Mershon, Secretary of the Trust Company Division, American Bankers Association, presiding. The proceedings will be summarized and published separately in the next Publicity Bulletin, copy of which will be supplied upon request.

Sixth Session
Friday Afternoon, Feb. 19
Insurance Trust Agreements

Thomas C. Hennings, Chairman of the Committee on Insurance Trusts, Trust Company Division, American Bankers Association and Vice-President Mercantile Trust Company, St. Louis, Mo., presided at the Friday afternoon session which was devoted to a review of insurance trust agreements for the purpose of assisting trust officers, attorneys, insurance underwriters and others interested in the development of this business.

The results of the discussion will be embodied in Insurance Trust Bulletin No. 3, being prepared by the Committee on Insurance Trusts and shortly to be published. A copy will be supplied upon request.

Fifteenth Annual Banquet

The Fifteenth Annual Banquet of the Trust Companies of the United States was held under the auspices of the Trust Company Division of the American Bankers Association at the Waldorf-Astoria, New York City, on Thursday evening, February 18, 1926, Francis H. Sisson, President of the Trust Company Division and Vice-President of the Guaranty Trust Company of New York, presiding.

The World Turns to the Right

By FRANCIS H. SISSON

President, Trust Company Division, American Bankers Association and Vice President, Guaranty Trust Company of New York

It is the privilege of your President to report progress during this year of his incumbency in office, progress for the trust companies, for the country and for the world. Since that historic day, 4,473 years ago, when the oldest recorded will which the human eye has seen was buried in the shadow of the Egyptian pyramids, there has been little change in the character of wills, but there has been a great change in the method of their execution. All through ancient history we find the record of wills bequeathing property from the dying to the living. In Egypt, Syria, India, China and Japan the ancients recognized the right of property holders to dispose of their estates by will. Roman and Mohammedan laws were drawn to protect this right, and in Saxon England, our own forebears maintained it. As far back as 475 B. C. we find the record of an association formed in Japan to execute the estates of the rich Samurai, and the first trust company or association probably there had its beginning.

High Water Mark in Trust Company Progress

But not until the last quarter century has the corporate fiduciary really come into its own, and today in the United States 2,700 trust companies are serving the fiduciary needs of individuals and corporations with over $18,000,000,000 of resources, in contrast with the $1,300,000 reported by 300 companies at the beginning of the century. Still we have scratched but the surface of our great field of service and an almost limitless opportunity for development lies before us.

Such conferences as that which we have held here this week are providing stimulants to that development and the officers of your Association can report activity in the protection and furtherance of your interests along many lines. The important problems of tax and regulatory legislation, of co-operation with life insurance companies and the Bar, of business building and handling, of im-

proved methods and better service, have all had consideration and helpful direction, so the closing of the current year bids fair to register another high water mark in trust company progress.

But the past year has been significant in more important ways in both national and international affairs in which we are concerned. Only a short time ago the prophets of evil with one voice declared that the world was standing at the crossroads and civilization was facing its great crisis. Indeed, the very end of European civilization was constantly predicted and we were freely told that another great cycle of world history had been completed and that mankind was headed for another dark age out of which a slow and precipitous climb to his ultimate estate must be painfully made. How different the prospect today. Almost over night, it seemed, there comes a change in world psychology and after ten years of war and the aftermath of war, 1925 has been designated "the first year of peace," the first year in which peace has been taken for granted, the first year in which men have ceased to struggle under the threat of impending calamity, battling between hope and fear, faith and doubt as to the future.

Political and Economic Peace

The inauguration of the Dawes Plan, the conference of Locarno, our entrance into the World Court, the gradual readjustment of international relations and the restoration of political and economic stability have all marked a turn to the right, away from the baffling crossroads at which the world seemed to have lost its way. Reason reigns again and reasonable men have come to the fore in international affairs. The erratic wanderings along the by-paths of radicalism and nationalism have been abandoned and definite progress along the main travelled road toward sanity, law and order and conservatism, under the impelling force of economic and social law, marks 1925 as one of the great turning points in our period of history.

The marvel of this situation is that this great change has been effected without any appreciable alteration in material conditions, although there too progress has been made, but the great change has been psychological. It marks the coming of that time when the desire for peace has developed into a belief in peace and in the organization of peace, with its apostles installed in power, with the will to make it effective.

This does not mean that Europe and the world have solved all their problems. There are disputed issues and unsettled problems all about us, but to their solution men are devoting purpose and effort in a constructive spirit which the world has not known for a decade. Indeed for a quarter of a century no year has opened with so much promise and so great a warrant for optimism as the year 1926.

May it not logically be hoped that, having taken this great step toward political peace, economic peace among the nations may also win its day and the current year mark progress toward its establishment? The will to work and the will to live, at the sacrifice even of some of the prejudices and aspirations which once seemed vital, pervade this new world of 1926 and from that will to progress, progress will be made. The turn to the right which has marked the year 1925 may then be the clearly defined trend of 1926. Not only has the world turned to the right politically in the defeat of radical governments and tendencies, in the establishment of conservatism and order in government, but in a marked degree in the restoration of economic sanity and in the realization of the fundamental necessity of permitting economic law to have its uninterrupted sway as a basis of business progress.

Higher Range of Prosperity and Living Standards

In America, in England, in France, in Germany, even in troubled and chaotic Russia, we see the evidences of the operation of this fundamental law on all sides, and in spite of the protests of the destructionists, the business community has moved on toward a higher range of prosperity, and the cause of capitalism, if that term may be employed in its broadest sense, is justified obviously as perhaps never before. Thousands of smoking chimneys are monuments to its vindication. Busy hands are building new temples for its worship, higher standards of living attest its benefits to humanity, and the increasing chorus of voices from the workers of a world profitably occupied sings its paeans of praise.

In the quarter century we have closed, all the speed limits of past eras, ancient and modern, have been exceeded. The Augustan, Elizabethan, Napoleonic and Victorian eras have all been surpassed. How far we can readily note in brief retrospect. Transportation and communication have been revolutionized by the motor car, flying machine and radio. The wealth of the world has increased beyond belief, that of the United States quadrupled. Higher standards of living and new conveniences and comforts are enjoyed by increasing millions. Labor-saving machinery and scientific developments are speeding production and facilitating consumption. Education and understanding are moving as rapidly as invention and through all this great material progress we see evidences of a greater sense of social responsibility, or higher ideals of life and its meaning. Commerce and culture, material achievement and spiritual advancement are moving in step.

Free Play of Economic Law

Every important experiment we have made has proven that our political institutions are not designed to serve economic purposes and it may be asserted that our prosperity is served by the free play of economic law. The constant urge to employ government agencies to solve

economic problems has no justification in either theory or practice. In so far as we have been tempted to tamper with economic order and to introduce government into business, have we retarded our progress. Fortunately, such instances have not been numerous enough to be vital, but they should be resisted from whatsoever source they come.

The fruits of the American capitalistic system, which provides primarily for the private ownership of property and the freedom of initiative, are manifested in our constantly increasing wealth, growing financial power, larger industrial capacity, harmonious labor relations, strong banking position, general commercial prosperity, and the living standards of our people. By these fruits we are willing to be known. Briefly we may with profit review some of the important facts which prove our case. Reduced to considerations of the moment we may say that our present high level of business activity is due to the return of buying power to the farmer, the boom in real estate, the activity in the motor industry and the increasing volume of capital seeking employment. But back of these obvious factors are the strength of our position in world finance, our supply of gold, our great natural resources, our increased productive capacity, our new markets and the constructive enterprise of our people. We have the money, the materials and the men; the combination which spells economic supremacy under a political regime which assures peace and order.

International Finance

The material gain in the value of our foreign trade is only one of many reflections of the forces which have promoted world-wide economic recovery from disaster of war and the post-war collapse. The recovery has made enormous strides during the past year. Most of the countries of Europe have succeeded in balancing their budgets and in stabilizing their currencies, and several have definitely resumed the gold standard. Physical rehabilitation has been accompanied by industrial and commercial reorganization. Trade routes and markets, both new and old, have been opened. Provision has been made for the settlement of international debts, and new loans have been made to finance industrial expansion. And finally, confidence has been promoted by the removal or mitigation of the peril of war.

Both at home and abroad, however, much yet remains to be achieved before it can be truly said that the world's economic recovery is accomplished. The international financial situation is still abnormal. The bulk of the world's monetary gold is in the United States, and its redistribution will necessarily be retarded by the enormous program of debt payment which is contemplated. As long as this situation continues, it will require unceasing vigilance to prevent, in this country, the inflation which ordinarily follows a great increase in monetary stocks. Such a development has not been seriously threatened in the last few years because of the caution displayed by business interests. In a few directions this conservatism has been allowed to relax somewhat during the past year. It is highly essential that speculative tendencies, wherever they occur, he quickly curbed.

As for the situation abroad, it is clear that for many years heavy financial burdens must be borne in order that the outstanding debts may be discharged and the cost of the war met. Financial systems must be closely watched for signs of unsound fiscal methods. Above all, every possible precaution must be taken to preserve peace and international good-will, if the peoples of the world are ever to enjoy the fruits of their long struggle toward economic well-being.

Two years ago the statement was made that it would be necessary for Europe to liquidate her hates before she could hope to liquidate her debts. Today it seems possible to believe that the liquidation of hate is in process and the liquidation of debt may follow.

In the face of this past year's turn to the right may we not logically hope for the enjoyment of a better ordered world, for a deeper realization of peace as the basis of prosperity and progress, for the coming of an age of faith in which the spirit of brotherhood will replace the violence of war and the benefits of co-operative service will supplant the disasters of blind selfishness.

To this end the trust companies of the United States are dedicated and in associated effort of constantly increasing efficiency, they are facing with enthusiasm the double opportunity for service and profit which the hour presents. (Applause.)

A Philosophy of Government in Its Relation to Business and Industry

By HONORABLE GEORGE H. MOSES
United States Senator from New Hampshire

Mr. President, Ladies and Gentlemen, I have come here tonight at the cost of some illusions. I look over this company, having been told it was bankers, and I think you must be mistaken. This is a company of engineers, hydraulic engineers, because I have never known a banquet to be run upon water power, which

possessed so many of the externals of great success as this one. (Laughter.) And I could not have told from looking at the audience that we were not assembled back in that era of our history which the stone-cutting mayor of Concord, New Hampshire, described as "them halikon days." And I come too, Mr. President, at a time when I lose another illusion. I had heard much of this Division of the American Bankers Association, but I had not thought it to be what I now see it. It reminds me, sir, of the French-Canadian who lives in New Hampshire, Frank Mercereau by name, whose wife one day had presented him with twins. And the next morning, as he came down the village street, the great man of the town met him and congratulated him. The Frenchman said, "Yes, by gosh, I thought from the look of me we would have more than one, but I did not think we would have as much as two."

I had intended to speak to you seriously, and I still have that intention, because I wrote my talk out. In other words, Mr. President, I feel myself like the late Bishop Burger, who was carrying the Gospel according to the Protestant Episcopal Church in these United States of America, into the wilds of Maine, and he preached one Sunday in a lumber camp, when he wore a monocle but did not use manuscript. As he came out of the camp he heard one lumberjack say to another, "Well, that is the first one of these here night-shirt fellows I ever see who could shoot without using a rest."

Ordinarily, ladies and gentlemen, speaking out of the fullness of the Volstead Act in Washington, I do not use a rest, but what I have to say to you tonight has to bear upon what I think is a subject of great consequence, all those things which mean much to you, and which I know mean much more to the average citizen of the country, because as I have had to do with those of you who sit here tonight, confronting you for the most part through a highly ornate and somewhat expensive brass grill, I realize that what you do in the life of the world, in the life of this country, means what we and the ordinary citizen shall do.

"Of the writing of books there is no end," said Solomon, who was wise in his day and generation. But if he had lived today he would have said, "Of the making of laws there is no end."

The relationship of Government to industry or enterprise necessarily has its basis in statutory enactment, and its development through ministerial administration and judicial interpretation. At the beginning of the Republic whose Sesquicentennial year now is about to present itself, our laws—whether of the Congress or of the State Legislatures—were few in number and simple in character; and we passed a full century of our independent existence, and almost as long a period under our Constitutional unity before any serious attempt was made either to change our fundamental statute or to multiply our legislation and to alter its character. The original amendments to the Constitution ran parallel to the Bill of Rights which prefaced John Adams' model; and the amendments growing out of the Civil War period, dealing as they did with citizenship, may be placed under like classification without strain.

Government Assumes Hybrid Form

Coincidental with the rapid development of the West which followed the influx thither of so many youths who had gained the spirit of adventure from their experiences in the Civil War, came the beginnings of a new school of legislation which centered its attention upon the economic problems which inflation, whether of activity or of credit, seems necessarily to entail. It is futile now to discuss the fundamental question out of which grew this new school of legislation; because, after half a century of experience with it, it still remains undecided in many minds whether that country is governed best which is governed least and whether there is a clear line of demarcation between the functions which individuals should properly preserve for themselves and the functions which a government, either local, state or federal, should properly take on. This question seems to have been determined for the minute in favor of an expansion of state and federal authority. With this has come, if not the disappearance, at least the partial eclipse of the representative character of our institutions; and I sometimes wonder if we have not ceased to be a Republic even though the matter of our becoming a democracy is still in an indeterminate stage of experiment.

The intentions of the fathers, however, are by no means doubtful. They intended this country to be a Republic, with representative institutions. But the Luther Burbanks of politics have been only too successful in their attempts to engraft the scions of democracy upon the stem of the Republic; and it sometimes seems that our governmental mechanism has taken on a hybrid form. And of a hybrid it suffices to say, not altogether without satisfaction, that it has no power of reproduction—its best known form being found in the noble mule, which stands without pride of ancestry or hope of posterity.

John Adams' Ideal of Government

I have spoken of John Adams, the lawyer of the Revolution, who laid his impress firm and deep upon our institutions. It was he who formulated the legal basis for the revolt of the Colonies; and it was he who, when that revolt had become successful, formulated its principles into an organic law for his own Commonwealth and gave to Massachusetts a Constitution which has since served as a model for eleven other states and from which the members of the Federal Constitutional Convention itself did not disdain to draw freely. It was John Adams' ideal to set up here "a government of laws and not of men." He died in 1826, and before he passed on another had arrived upon the scene, with a similar Constitutional viewpoint, and Daniel Webster, another lawyer, took up and rounded out what Adams had so well begun.

From Adams and Webster, through a period ranging from 1762 to 1852, down to Tom, Dick and Harry, who for the last seventy years have thrust their meddlesome fingers into our legislative pie-making, is a far cry. During the earlier period the Congress and State Legislatures enacted few and simple statutes; and self-respecting citizens in communities scorned the aid of the government in doing those things which produced great captains of enterprise and made the nation strong, and rich and powerful.

I do not undertake to deny that there were abuses in those earlier days; but what of the remedy which has been applied to them? It is not fairly open to question whether the drastic practices to which we have too often had recourse have been pursued to an end which may become disastrous, if indeed they have not already reached that point?

At any rate, one outstanding reaction is that a large, a growing, and I sometimes am moved to think, a dominant school of opinion has come to exist in which the sovereign panacea for any evil which may afflict us is to add to the already swollen volume of statute law. I have found nowhere any considerable group of average American citizens who, in any discussion of current events, with the conversation turning upon some fancied hardship, wherein at least one member will not rise up to exclaim with an emphasis which is usually profane that "there ought to be a law about it."

Laws ad Nauseam

And so delicate is the inter-relation of public opinion thus made vocal and those sensitive individuals who adorn our halls of legislation through the operation of the direct primary and the popular election of United States Senators that we have come to have laws ad nauseam. The delicate finger which so many legislators pride themselves in being able to lay upon the public pulse too frequently mis-reads for an organic difficulty that which is merely functional and febrile and fleeting.

Those doctors who operate so blithely upon our body politic too frequently remind me of the product of those medical diploma mills which periodically produce scandals and upheavals in some of our states. They are not content with the reactions which they, themselves, affect to find; but they permit themselves too often to indulge in a widely receptive mood which is preyed upon by the multiplying agencies of propaganda and publicity which our age has produced—and which themselves have given birth to a new calling, the calling of the professional stimulator of public action, a calling which I venture to assert is rewarded far more liberally, if one may judge by externals, than any of the so-called learned professions with the possible exception of the law, and greater, I am moved to believe, than those which fall to the lot of many engineers in steel construction.

It is at this point that the relation of government to industry takes on a peculiarly intimate form. Nor need we confirm our discussion to industry alone; because the relation of the government as formulated by statute is so far reaching and comprehensive that it involves every item of personal enterprise or even of conduct. The Constitution, itself, now finds its fabric, once so clear and simple, threaded with provisions which scarcely can rank above the level of mere police regulations; and the assault upon the statute books, both state and federal becomes yearly more impetuous, not to say impudent. The tiny stream of regulatory measures which began with the Granger legislation of a half century ago has now swollen to a raging torrent; and its volume, as measured at the close of the 68th Congress, meant the serious proposal within the last two years of some fifty-nine thousand new laws, of which twenty thousand were introduced in Congress and the balance presented to the State Legislatures which were in session.

Craze for Statutory Regulations

The variety of these legislative proposals is an infinity which it would appear age cannot wither nor custom stale. They run the entire gamut of human activities. They trespassingly cut across the most private of human relationships and whatever there is in the likeness of anything that is in heaven above or in the earth beneath or in the waters under the earth is likely at any time to find itself the subject of legislative inquiry or the purpose of legislative enactment.

This craze for the statutory regulation of all human affairs is, as I have pointed out, by no means confined to the federal legislature. In every state capitol incense is constantly burned to the great god Legislation; and no citizen of any state here represented can feel sure at the close of any day that he has not violated some statute in the course of even his most innocent pursuits. I have been greatly struck with this fact by an analysis made by a judge of one of the courts of New Hampshire of the recent codification of the public enactments of my own state; for in it there is to be found hardly a subject which has not been touched upon in some way and hardly any form of human activity which has not been regulated. My judicial friend describes it as "almost as broad as the Common Law but differing in one particular at least, namely, that it is not altogether founded upon reason."

From Cradle to Grave

Even a cursory study of the great volume of statutes which our legislatures have spawned so prolifically amazes one by the great variety of inhibitions which are found; and we come to realize how many lines of employment and recreation which for generations had been considered as legitimate if not praiseworthy are now closed or limited unless ministerial permission is first obtained. For example, in my state, stallions, births, deaths, marriages, motor boats, motor vehicles, nurses, trade-marks and portable sawmills must be registered. Chauffeurs,

plumbers, peddlers, hunters, insurance agents, junk dealers, lightning rod vendors, private hospitals and dogs must be licensed. And one cannot register a motor vehicle, carry a revolver, set a trap or build a fire even on his own land without a permit. No one can practise law, medicine, dentistry, optometry, chiropractic, embalming of veterinary medicine without first passing an examination.

Considering the care and oversight which is now exercised in our behalf by means of legislation, one may well wonder how our ancestors ever were able to reach the age of maturity without the protecting and sustaining arm of the law. Not only does legislation now cover as with a mantle the rights of dependent, defective, neglected, delinquent and incorrigible individuals, but it exercises almost equal oversight with regard to the small group not included in these numerous and growing classes. Statute now declares that when a child is born into the world someone shall immediately wash its face and put one drop of nitrate of silver into each eye; and throughout life statute prescribes to some extent what one may eat, what one may not drink, requires one to wear some clothes, and dictates where, when, how long and under what conditions one may work. And statute, which thus stands at the cradle, is found also by the death-bed, declaring that one's circulatory system shall not be filled with corrosive sublimate unless the person performing the operation shall be at least twenty-one years of age and shall have attained a grammar school education. And even at the grave, statute continues to stand as a sentinel and threatens with a fine and imprisonment any who shall desecrate the resting place of the dead.

Multiplication of Political and Ministerial Jobs

At this point I am sure some will be minded to recall what I have already said of John Adams' ideal for a republic; a government of laws and not of men; and you will begin to wonder whether after all this is not the happy lot of the people upon whom it has been purposed to confer, within the short space of two years, the blessings embodied in 59,000 new statutes. We should remember, however, that these statutes, however well intended, however salutary, however well grounded in public desire and favor, are none of them self-executing; and in consequence they have called into being an army of public officers who might well be described in the language of the Declaration of Independence wherein King George the Fourth was arraigned for that he "erected a multitude of new offices and sent swarms of officers to harass our people and eke out their substance." To such a pass indeed has the multiplication of ministerial offices taken place that substantially one in twenty of our citizenry is now attached to a public payroll, either federal, city, country or local; and the drain upon the revenues and upon the productive manpower of the nation is incalculable.

Nor is this all. In many, if not in most of the statutes of which I have spoken, the general principles which they seek to apply are so nebulously far-reaching that neither their originators nor their putative legislative parents, nor those who vote for their passage are able to foresee the manner in which they shall be put into force. In consequence, our body of laws is shot through with authorizations to this, that, or another commission to some minor executive officer to make regulations which when promulgated in a prescribed manner wherein no power of scrutiny or amendment finds place, shall have the full force of law. And not infrequently these regulations, which bear the sign manual of no representative officer who owes his place to popular choice, carry with them penalties transcendant of constitutional guarantees and to that extent subversive of the fabric of the government.

So numerous indeed are some of these regulations—notably those which deal with the administration of the federal tax laws, that no citizen, however honest, can be sure that he has made his tax return consonant with the latest of the many regulations so constantly emitted by bureau chiefs who apparently have nothing else to do.

The Jumble of Tax Laws

There is a story of an eminent lawyer who in arguing before a court made a legal pronouncement upon which the presiding Justice interjected, "That is not the law." "I beg your pardon," said the lawyer, "it was the law until Your Honor spoke." (Laughter.) And thus, because these ministerial regulations which harass and hamper honest business men are so frequent and so frequently contradictory, we have come to see in recent years a procession of capable men passing through employment in the Treasury Department, where they become educated at public expense, and emerging to enter upon the profitable practice wherein they apply what the taxpayer has enabled them to learn for the advantage of clients seeking assistance in dealing with a government which should be just, if not generous, but which too often is found to be merely finicky and fanatical. Perhaps the most striking commentary upon the manner in which legislation, tax legislation in particular, affects our citizenry is to be found in the fact that the men who have framed our tax laws are themselves unable to operate under them and each year an expert has to be sent from the Treasury Department to the Capitol to help Senators and Representatives prepare their income tax returns!

A government of laws? Indeed, yes—a government of laws so numerous in some instances, so contradictory and not infrequently so ridiculous as to bring all law, tendentially, at least, into disrepute. And upon this has been heaped up also a government of men, handed down by those dressed in a little brief authority and adminis-

tered with such scant regard for the individual that there should be small wonder at the unrest which we see rising so menacingly in many quarters.

Defense of United States Senate

And yet in the face of all this we see—and from quite another quarter—a movement taking place in which the chief result can be nothing else than to make it easy to pass more laws, to create more offices, and to make government more costly and more meddlesome. For nearly a century and a half in a historic chamber there has been maintained a citadel which the unthinking have never yet been able to storm. It is not likely to surrender now. But for that refuge the people would long since have been buried under the ashes of laws thrown up from many a legislative Vesuvius in constant eruption. I need not enter upon a defense of the body to which I for the moment chance to belong. It is mathematically axiomatic that the whole is equal to the sum of its parts—and the spectacle presents itself at each biennial test of substantially all Senators honored with re-election. Accordingly, it must be that the larger view of the Senate as the country looks upon it is that described by another voice than mine as a body which is, as "intended by the fathers, a citadel of liberty. Whatever its faults, whatever its human imperfections, there is no legislative body in all history that has used its powers with more wisdom and discretion, more uniformly for the execution of the public will, or more in harmony with the spirit of the authority of the people which has created it, than the United States Senate."

These words were pronounced by the Vice-President who was inaugurated on the fourth of March, 1921; and he prefaced them with another characterization of the Senate, wherein he described "its greatest function of all, too little mentioned and too little understood, whether exercised in legislating or reviewing," as "the preservation of liberty, not merely the rights of the majority, they need little protection, but the rights of the minority from whatever source they may be assailed."

The True Philosophy of Government and Business Relationship

Herein is embodied the true underlying philosophy of the relation of government to industry and to the body of the country as a whole. That relation, properly understood and wisely applied, means that the passion of the hour shall never be translated into the power of the future. It means that momentary incidents which will right themselves with the passage of time and through the application of enduring economic law which is not the subject of legislative whim, shall not be made the occasion for the oppression of the individual or the mulcting of the tax-payer. It means that enlightened revenue measures shall liberate enterprise, shall unshackle initiative and shall set the feet of the nation again in the pathway of advance which it has already trodden so far and so successfully. It means that the meddlesome and palsying hand of government shall be removed from business. It means a new day, in which we shall find the reflection of an older one, and wherein the relation of government to industry shall again be helpful instead of hampering. It means that Congress shall turn from indiscriminate investigation to discriminating legislation; and that this legislation shall be shaped, not by the obsessions of a block or the selfishness of a section, but that our laws shall be national in character and beneficent in purpose. Contributing to this end there should be, and I doubt not, will be, the co-operation of organizations such as yours, which represent great cross sections of large interests co-extensive with the country, and which, when properly set in motion, cannot fail to bring about a wiser and more helpful interpretation of the true relation of our country's government to our country's industry.

Giving Your Best to Humanity

By HONORABLE A. HARRY MOORE

Governor of the State of New Jersey

Mr. Chairman, Ladies and Gentlemen: I was invited here and told that I would not have to say anything. I did not want to say anything, but your toastmaster has insisted, and I must therefore respond. As I raise my eyes toward the gallery and see the ladies seated there, I am reminded of the Biblical statement that man was made a little lower than the angels.

I have discovered that a New Jersey man is not allowed to speak in New York until he becomes Governor of the State, and that is probably why I am here tonight. I do not know very much about bankers, though I am a director of two banks, but I suppose that is because I am the Governor of New Jersey and may be able to send some deposits to those banks. (Laughter.)

Over in New Jersey, in Jersey City, we have a banker with a glass eye, and he is very proud of that glass eye, because it is such a good glass eye that it is difficult to tell the difference between it and the other. One day a fellow came in and asked for a loan. He could not get a loan from the Vice-President and finally he came

to the President. The President said, "I will give you that loan on one condition; if you can tell which of my eyes is the glass eye." The man looked at him and said, "It is your right eye." He said, "By Jove, you're right. But how did you know?" The man replied, "It was the more human of the two." (Laughter.)

A Thin Line Between Victory and Defeat

I have been Governor just about a month and I am hardly used to it. However, I am convinced that there is only a thin line between success and defeat. I think of that in connection with some very delightful ladies who visited one of our institutions a short time ago. They went out into the yard of the institution—it was an insane asylum—and they saw a fellow who was walking around, shouting, "Nora, Nora, Nora." One of the ladies said to the Irish attendant, "Why is he calling Nora all the time?" The attendant said, "That is a terrible case, that is awful. That poor fellow was in love with a girl named Nora, and on the very day that he was going to marry her she jilted him and he went crazy, and here he is and all he does is to cry for Nora. Come in and I will show you a worse case than that." They went inside and there was a fellow in a strait jacket, and one of the ladies said, "What is the story of that man?" The attendant said, "That's the guy who married Nora." (Laughter.) So you see, there is only a thin line between defeat and victory.

Principles of Service

I was impressed with what your President said about service. Of course, this month we pay tribute to two great Americans, men who were great because of their service to humanity; men who considered success not in terms of dollars and cents, but in serving the common good.

Sometimes, you know, in Rotary Clubs, Kiwanis Clubs and various other clubs we have a principle of service or of building; we love these principles; we, as Americans, think greatly of principles, but sometimes I wonder whether we put them into practice or not.

I think of the illustration of the Irish woman who was discussing her husband, and she said, "You know, Mrs. Clancy, Mike is the grandest husband in the world. Every Saturday night he comes home and tosses his pay envelope into my lap. Of course, there ain't never anything in it, but it's the principle of the thing." (Laughter.)

Sometimes I think it is the principle of the thing that appeals to us and not really the thing itself. It was Robert Morris, one of the signers of the Declaration of Independence, who said, "A monarchy is a wonderful thing. It is like a great ship, everybody gets aboard and sails along until it strikes a rock, and then it goes down. Ah, but a republic such as ours is a raft—it can't sink. But damn it, your feet are always wet." (Laughter.) So it seems to me, in this great country of ours there are always problems and opportunities for correcting them. There are opportunities for service, opportunities to do good to humanity, and it seems to me that your President has struck the keynote when he speaks of a service to mankind.

I do not intend to make a speech to you, but I glory in the fact that you have gathered here as men of a great profession, men who mean so much to America. You are gathering here in this convention in the spirit of fellowship and in the spirit of service.

The Biggest Thing in Life

The other day I welcomed to New Jersey, Captain Fried, that great hero, and as I talked to him of what he had done, and of the two men who did not return with him and who would never again come back in this world, that strong man, who was willing to face death, cried like a baby. He had carried his ship across the ocean time and time again. He had measured up to his job. However, the one time that he went outside of that job to save life, the one time that he had been able to serve humanity in its dire need, was the biggest thing in his life.

Oh, my friends, that is the thing that counts after all: It isn't the fame, it isn't the glory, it isn't the honor that comes to us, but when you and I can take a sunbeam out of the sun and bring it into the dark hour of another's life, then we are of some value upon earth, then we are of some real service to humanity.

This incident occurs to me and then I am through. Over in Jersey City, where I live, we had a little girl who went to France and became the champion swimmer of the world. She was only fifteen years old, but she competed in the Olympic games. When she came home, on behalf of the people of Jersey City, I presented her with a gold medal, and I said to her, "Martha, it must be wonderful to be champion of the world." That little fifteen year old child looked at me and said, "Yes, it is wonderful. You know," she said, "when I went over there and took my place on the starting line and I looked down and saw girls wearing sashes on which were the names of Sweden, of Germany, of Denmark, of England, of all the world, I said to myself, 'How can I, a poor little Jersey girl, hope to win?' Then," she said, "I looked down at my breast and there I saw the word AMERICA, and oh, then I thought of what America meant! Of whom I represented! I murmured a prayer to God and then the gun was fired and I dove in, and I gave the very best that was in me for America. And," she said, "as I went over the line I did not know I had won, but I knew there was a great pole there and that they would notify the vast audience who the winner was by running the flag of the winner's country up to the top of the pole, immediately after the race. As I went over the line I looked. Then I heard the boom of a

cannon and saw the Stars and Stripes flutter up to the top of the pole, and, oh, the thrill of knowing that I had sent that flag up there!"

My friends, the spirit of that fifteen year old girl was the spirit of you, of your sons who went over the top, muddy and bloody and staring and glaring and dying, and giving the best that was in them—for America. Gentlemen, America is greater than your bank. Ah, America, in this holy week, in these holy weeks of Washington and Lincoln, is greater than anything else that we can contemplate, and when you give the best that you have to humanity, you give the best that is in you to America, and then you are measuring up to your only excuse for living. (Applause.)